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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable LISA MURKOWSKI, a Senator from the State of Alaska.

The PRESIDING OFFICER. The Chaplain will lead the Senate in prayer.

Today's prayer will be offered by our guest Chaplain, Father Dennis Kleinmann of St. Mary's Catholic Church, Alexandria, VA.

### PRAYER

Almighty God, blessed are You Lord of mercy. You exemplify all virtue, including patience, purity, kindness, and humility. We thank You for the many graces You have bestowed upon us and our country: the freedoms we enjoy, the liberty to assemble as we do here today, and the right to enact laws which govern this Nation of ours. You allow us to be witnesses of justice and truth. You fill our hearts with love. You enrich us with courage and enable us to work for the good of all.

Through our Founding Fathers, these United States of America have been established as the protector of these rights and freedoms. You continue to bless us with men and women willing to serve these goals and this Nation tirelessly. God of truth, as this Senate meets yet again today may Your light of wisdom guide them and direct their deliberations that they may together always work peacefully and charitably. May they seek to promote national happiness. And as they discharge their duties this day may honesty and integrity rule their thoughts, words, and deeds.

We pray that these Your sons and daughters entrusted by Your authority with our welfare may act with knowledge and understanding. We ask that the peace only You can truly give be ours both now and forever. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable LISA MURKOWSKI, a Senator from the State of Alaska, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS.)

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 17, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LISA MURKOWSKI, a Senator from the State of Alaska, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Ms. MURKOWSKI thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Madam President, today the Senate will be in a period of morning business until 10 a.m. At 10 o'clock, the Senate will resume consideration of S. 1, the prescription drug benefits bill.

Yesterday afternoon, a number of Senators came to the floor to begin this historic debate. I hope many Members will participate and will continue

to make, over the course of today, their opening statements on this important piece of legislation.

I ask unanimous consent that the bill be open for debate only until the hour of 2:15 today, and further, that the time until 2:15 be equally divided between the two managers or their designees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Today, the Senate will be in recess from 12:30 until 2:15 for the weekly party lunches. Rollcall votes are possible during today's session, and we will notify all Members as these votes are scheduled over the course of the day.

Madam President, we will be turning our attention to Medicare shortly, and we will be focused on this significant, important piece of legislation for the next several days. Indeed, we will stay on this bill until we vote on its passage. As I looked over the progress from last week, I saw a lot of encouraging examples of consensus building and working together on both sides of the aisle, of progress and of achievement in a bipartisan cooperative way. We made huge progress in the debate on energy and, indeed, were able to pull together a finite number of amendments.

Over the course of the weekend and this week, the managers of that bill will be looking at those amendments to see how we can, in a very orderly way, come back and address energy and bring it to completion. We also, last week, completed our action on a number of important issues, one of which was the FAA reauthorization. We were able to do that in one day. I thank the chairman and the ranking member for their cooperation in moving this important and much-needed bill to completion.

We also passed the Burmese Freedom and Democracy Act last week. In particular, I want to thank the distinguished majority whip, the Senator

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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from Kentucky, Mr. McCONNELL, for bringing that bill both to our attention and shepherding it through the floor.

Last week, we also passed the Women Business Centers Preservation Act, sponsored by Senator OLYMPIA SNOWE, and we were able to complete a number of executive nominations. We have a whole range of other nominations pending, and we will work to clear these nominations on the Executive Calendar and to schedule rollcall votes as necessary.

As we enter the Medicare debate and the amendment process, I am very hopeful it will follow the same pattern we showed last week in working together. We will see robust debate. The end product is something for which I think we will have strong bipartisan support. I think the amendment process will reflect a lot of the differing approaches on both sides of the aisle within each of the caucuses as we go forward with the shared goal of strengthening Medicare, improving Medicare and, at the same time, providing America's seniors with the benefit that we have been denied in the past because traditional Medicare simply hasn't kept up to the times, and that is prescription drug coverage.

I look forward to 2 weeks from now when we will, on this floor, hopefully—I optimistically say this—pass a bill that America's seniors and future retirees will be able to look at and say, yes, that is health care security and that does include the benefits that are so important to health care delivery today, namely, prescription drugs.

We have talked a lot about modernization of the Medicare Program over the last 45 years. We had a bipartisan commission that generated a plan that was bipartisan, which Senator BREAU and I put together based on the findings of the Medicare Commission. The Senate Finance Committee, over the last several years, has had 30 hearings, with 7 devoted just to this issue of prescription drug coverage. Earlier in the month, we held an additional committee meeting to focus specifically on the framework that has been put forth by the managers of the bill, Senator GRASSLEY and Senator BAUCUS.

That hearing constituted the third committee hearing on Medicare this year. Indeed, last Thursday night, the Finance Committee voted to send this historic legislation to the floor of the Senate with a bipartisan vote of 16 to 5. I thank Chairman GRASSLEY and Senator BAUCUS for getting us to that pivotal point. This Grassley-Baucus agreement provides a strong base, a strong framework upon which we can achieve that mutually shared goal of strengthening and improving Medicare with a meaningful prescription drug benefit added. There are so many others who should be recognized who participated in the debate, but it is almost futile to do it because so many have participated in this body and in the House of Representatives, indeed, with the ad-

ministration and the bold leadership of President Bush. I think because of all of this activity and the foundation that we have of working on this for years and years, we do have an opportunity—and indeed I argue that it is an obligation—to bring this debate to a point in which we take action and actually pass a framework to give this appropriate strengthening of Medicare.

Yesterday, Members did have the opportunity to deliver opening statements. As I mentioned, they will continue through this morning and likely into the early afternoon. Later today, if appropriate, we can go to amendments and tomorrow have a very active day on amendments.

Again, I hope we will be able to turn to final passage of this bill before we adjourn for the Independence Day recess.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will begin a period for morning business until the hour of 10 a.m., with the time equally divided between the two leaders or their designees.

The minority leader.

#### PRESCRIPTION DRUG BENEFIT

Mr. DASCHLE. Madam President, I commend the distinguished majority leader for his statement and for the effort he has made to bring the debate on prescription drugs to the floor over the course of the next 2 weeks.

I share his hope and his goal that by the end of this period, we can have achieved what I think all Senators want—a good, vigorous debate about what is the best approach to take with regard to a prescription drug benefit under Medicare—and complete that debate prior to the July 4 recess. I have indicated to him personally that it would be my intention to work with him to accommodate that goal. I do hope we can move to the amendment phase of the debate sooner rather than later, preferably this afternoon.

I also commend Senators GRASSLEY and BAUCUS for their effort in the Finance Committee. The vote of 16 to 5 was an indication of their success in accommodating the concerns and the ideas of many of our colleagues. They have worked on this for a long period of time and I think deserve our commendation for the effort they have made on a bipartisan basis. During the committee process, I indicated it would be my hope that I could work as vigorously as they did in achieving the bipartisan tone that was accomplished during the markup last week.

I must say, I do not share the enthusiasm for the legislation that some of my colleagues do, and I wish to talk about that this morning. We may have a different perspective on how close this may be, but I also recognize that we have made the perfect enemy of the good at times, and I do not want to do that in this case.

I hope we can make a good down payment. I hope we can achieve a start. I have been concerned about how shaky a start this may be, but it is a start. If we are going to commit \$400 billion over the next 10 years to provide meaningful drug benefits, I hope we can do so maximizing the use of those resources, providing the most efficient utilization, and a mechanism, an infrastructure, for prescription drugs that will accommodate many of the goals and hopes we have for at long last modernizing Medicare in a way we know must be done.

I hope we do not overpromise. It is so easy to make proclamations about how good this accomplishment is, and I think we may create false expectations, high expectations, for this legislation that just will not be realized once the full impact of the bill is felt in the countryside.

Some have said, for example, that this is just like FEHBP, the Federal Employees Health Benefits Plan, for Senators. It is not. There is about a \$1,000-a-year difference in the value of benefits between what Senators get and what seniors are going to get.

To do what Senators get, we are told by economic analysts, it would take about \$800 billion over a 10-year period, not \$400 billion. So this is not FEHBP. This is something substantially below FEHBP.

We also must acknowledge that a senior who has \$5,000 of drug costs will get a benefit of about \$1,700; \$3,300 will still come out of pocket out of that \$5,000. So people need to be aware this is not FEHBP; that this is not going to address all of the concerns and needs that seniors have with regard to their drug costs.

Having said that, I believe we put down a marker, we set a foundation, and we should work with the administration and with especially the Department of Health and Human Services to address some of these concerns, and over time I believe we can make this an even better bill. Whether it is in the next 2 weeks, the next 2 months, 2 years, or 2 decades, we are going to make this a better bill, a better program.

There are a number of concerns I have with regard to how we can make it better that I hope we can address through amendments. The first amendment Democrats will offer is simply to give seniors more choice; to say to them: You can pick a private sector plan if you wish, but we also think you ought to be able to pick a plan that is strictly a Medicare plan; that you can simply extend your current Medicare benefits for doctors and hospitals to

prescription drugs as well, and that should be an option for you as you make your decision with regard to what choices may be right for you. That will be one of our key amendments. As I said, it will be our first amendment.

I am concerned as well about the volatility of premiums. There are those who suggest there will not be much variation, and yet in testimony we were given just last week during the markup, the experts told us they could not guarantee there would not be great volatility.

We are concerned about the past example of Medicare+Choice, the premium for such plans can cost \$16 in Florida and cost \$99 today in Connecticut. That variation is what we are afraid could be part of this plan unless we do something about it.

Seniors are going to have four cost issues about which to be concerned. The first is the premium. The second is the initial cap on benefits and the stop-loss; that is, at what point do they lose all coverage and at what point do they get catastrophic coverage—and I will get to that in a minute, the gap when they pay all of the costs. They will also have co-payments and the deductible. All four of those variables could change dramatically. The deductible is currently \$250, thereabouts, in the bill, but it could go up. The co-payments are 50-50, but it could go up. The stop loss is around \$3,700 out-of-pocket. That could change. And you have, of course, the premium itself which is estimated to be \$35, but there is no guarantee.

There is no defined benefit. One plan could have a lot more benefit than another. And seniors in their late eighties or early nineties are, I think, going to find it very confusing with all these variables with regard to their costs and also extremely different options and variables when they get to their benefits. So there is no defined benefit.

As I say, there is still a large issue with regard to the benefit falloff, the initial benefit cap for the package overall. It has been described as a donut hole, a coverage gap, but the benefit cap, the benefit stop that kicks in at about \$4,500 in drug spending, will mean that seniors between \$4,500 and at least \$5,800 are going to have to pay all of the premium costs and get no benefit whatsoever during that period of time. So we are going to have to deal with that as well, it seems to me, and that is a function of cost.

We also have another issue about which we are concerned. We are told by CBO that 37 percent of beneficiaries—this is CBO—37 percent of beneficiaries with retiree prescription drug coverage will lose it under this bill; 37 percent, one out of three retirees, one out of three at least. I guess you could not say necessarily it is one out of three employees; it could be more than that.

Thirty-seven percent of beneficiaries with retiree coverage today will lose that prescription drug coverage when this bill kicks in. There is only one

way to stop that from happening: To incent employers, to try to discourage them in as many ways not to drop that coverage, and we are going to try to do that.

The way we write the language on how retirees can be dropped, the way we incent employers by providing them with benefits to keep that coverage—we are going to try to do that as well. To provide 100 percent of the incentive it is going to take for companies not to drop their employees would cost more money. This bill currently has some. So we are going to see if we can get closer to that full amount to ensure that we do not find any more companies than absolutely necessary or possible that will drop their employee benefits.

So we have a number of significant concerns about the way this is written, about the benefits, about the uncertainty, about the costs, about whether or not Medicare can play more of an upfront role.

We have one other issue, the volatility of the benefit itself. South Dakota is a good example of a concern that many of us have. In South Dakota we do not have any Medicare+Choice. Companies do not want to serve the rural areas. So we are concerned about what it is going to take to bring companies into South Dakota to compete for the benefit plan to be provided in our region. If we cannot find anybody, under the bill, Medicare kicks in for 1 year. Once Medicare has kicked in, at the end of 1 year's time, these private companies can come back in and the Medicare plan that seniors had counted on for that year no longer would exist and there would be competition again for the private sector plans competing if they wish to serve that particular area.

So there is this constant change. If there is anything seniors do not like, it is change and this uncertainty that comes with change.

Not only that, we learned last week another disconcerting aspect of this. A decision would be made sometime in September on whether plans would exist for the coming year. If it can be determined by September that the plans cannot be put into effect for that coming year in a given region, then what happens is Health and Human Services establishes a Medicare plan, but they have to contract with a private company to provide that Medicare plan for the following year beginning in October.

So what happens under the bill between October and January is this: They find out first that no two plans can compete, so the Medicare plan is supposed to kick in. They contract for the Medicare plan, decide what the premium, the benefits, the stop loss, and the deductible are going to be. They somehow notify all the seniors in the region. They begin to try to implement the plan between October and December and make all of these decisions with regard to plans, benefits, notifica-

tion, implementation, and administration. Technically it is supposed to kick in on January 1.

Now, if my colleagues have seen Government work that fast in any other area than perhaps a military intervention somewhere, I would like to see where it is. I am very concerned—frankly, extremely concerned—about whether or not that is even humanly possible.

Keep in mind, this is not going to be a one-time experience. We are going to repeat this every single year perhaps. We are going to make a decision in every region whether or not these plans can compete. Whether it is Alaska or South Dakota, my guess is they will not find them. They will then say, okay, we are going to have 3 months to fully implement a Medicare fallback even though we do not know who the contractor for that Medicare fallback will be on October 1.

So I have to say, as we walk through a lot of these concerns, my colleagues will understand why many of us worry about setting these high expectations and then find out how seniors will deal with them and address them in a way that does not cause confusion, fear, anxiety, frustration that is so unnecessary if we would just do this right.

Mr. DURBIN. Will the Democrat leader yield for a question?

Mr. DASCHLE. I am happy to yield.

Mr. DURBIN. I ask the Democratic leader, as a member of the Senate Finance Committee which is deliberating on this 653-page bill, if he would acknowledge or at least respond to the following: I believe the positive aspect of this is that for those who started out this debate saying we are going to eliminate Medicare, that Medicare is going to be replaced with a private plan, private insurance, that argument is out the window. Medicare recipients will be able to continue their basic Medicare coverage for hospitals and doctors. It will not be an either/or situation. I think that is positive.

We have finally reached a point where we have an honest debate over prescription drugs, and I think for those of us on this side of the aisle who have been pushing for it for so long, those are two very positive aspects of this debate. I ask the Democratic leader if he would agree with that.

Mr. DASCHLE. I would certainly agree with that, and before the Senator came on the floor I commended those responsible for making this a better bill and bringing us to this point. I think that while perhaps it is a shaky start, it is a very important start and we can deal with all of these other issues. Those are two issues we have dealt with, and I am grateful for the fact that we have made progress.

Mr. DURBIN. I want to ask the Democratic leader three specific questions about this bill that I think go to the heart of the challenge we face.

It is my intention to vote for this bill but also vote for amendments which I think will improve it. First, the cost of

prescription drugs goes up 10 to 20 percent a year, and as these costs rise, seniors are paying more out of pocket. In 653 pages of legislation, how much is dedicated to controlling the costs of drugs, keeping them affordable, not just for seniors but for all American families?

Mr. DASCHLE. In response to the Senator from Illinois, some of the bill's proponents would say that is what they hope to achieve through competition, but we have not seen that work. Medicare+Choice was supposed to be competition, and it has not worked.

What we need to do is to have real competition with a Medicare benefit plan that will kick in, that will allow us to compare what could be done in the private sector with what could be done in the public sector. We have seen real cost containment in the Veterans' Administration. We have seen it in the Defense Department. To a certain extent, we have seen it in other governmental agencies, such as the Indian Health Service. We have not seen it yet with Medicare+Choice. That is No. 1. No. 2, we will be offering an amendment offered at least by Senators GREGG, SCHUMER, and others on access to generic drugs which will give people an option to buy the generic version of a given drug, and that will help. Senator DORGAN will offer an amendment for reimportation of drugs sold cheaper in other countries to allow greater cost containment. Those three things could go a long way to addressing the issue of costs more effectively, and that is what this amendment process is going to be all about.

Mr. DURBIN. The second question is: When seniors have to figure out whether or not they want to get involved in this program, they have to make a calculation: Is it worth it to pay a premium each month and face a deductible at the end of the year? Will I be ahead or behind? As I understand it, we have heard a lot about a \$35 monthly premium, but that is not mandated in this bill. There is no requirement that it be \$35 a month. It could be considerably more. The \$250 deductible that is in here I guess could be changed as well. So for the seniors who are trying to decide whether this makes sense based on their personal budgets—and that is what it comes down to—have we not created kind of a moving target as to what this is going to cost each senior across America?

Mr. DASCHLE. Well, there is not only one, there are four moving targets. The first moving target, as the Senator suggests, is the premium. It is suggested it be \$35 a month, but there is no guarantee. It could be \$100. It could be \$20. No one knows. They will not know until they are able to determine just what it is going to take to bring a benefit to a given region. That is only the first.

The suggested deductible is \$275. There is no guarantee. Nobody knows whether it is going to be \$500 or \$100. There is no guarantee on the copay. It

is supposed to be 50/50. It could be 70/30. There is no guarantee on the so-called initial cap on benefits, or the benefit loss at some point, whenever that kicks in. It could be \$4,500. It could be different. That is the benefit cap beyond which one has to pay all of the costs of a prescription drug.

So there are those four variables. As the Senator suggests, more clarity and certainty in this legislation would go a long way to eliminating a lot of the anxiety seniors have about this.

Mr. DURBIN. The last question I will ask the Democratic leader—and I see others are in the Chamber—it is my understanding that when Medicare was created under President Johnson, from the date of the passage of the legislation until Medicare went into effect was less than a year. It is also my understanding that this prescription drug protection, whatever it offers, is not going into effect until 2006—is my understanding correct—after the next election? Is that correct?

Mr. DASCHLE. Unfortunately, the Senator is correct. Some suggest it takes that long to set up the infrastructure, but as he also noted, Medicare took 11 months. When we established Medicare, 11 months later it was up and running. If an entire health care system can be developed with a payment regime for doctors as well as hospitals—and I might add there were two different payment regimes, Part A and Part B—in 11 months, I do not understand why it would have to take 3 years for us to do this. But that is what is incorporated in the bill.

Mr. DURBIN. I say to the Democratic leader, those are the three areas that jump forward as you look at this bill, the uncertainty in terms of cost, the complete lack of cost controls and reduction in prices for prescription drugs for American families, and the fact this is being delayed until after the next election strikes me that those who are proposing this are afraid once seniors actually see these uncertainties they may decide this is not as good a bargain as they had hoped.

Although this is a step forward, the alternatives we will offer on the floor are going to create more certainty, more price competition, and a better approach for seniors.

I thank the Democratic leader.

Mr. NELSON of Florida. Would the Democratic leader yield for a question?

Mr. DASCHLE. I am happy to yield.

Mr. NELSON of Florida. Recognizing that several States, including the State of the distinguished Democratic whip, Nevada, have implemented prescription drug plans of which they were not able to get any insurance company to step forward to offer prescription drugs under that plan because the insurance companies could not make any money, are we likely to see this revolving door the distinguished Senator from South Dakota has talked about, that two companies are supposed to compete and offer prescription drugs to the senior citizens but they do not step

forward, and they go back to the backstop, which is the Medicare plan, and then there is the thought they will step forward again but they don't, and then they backstop back to the Medicare prescription drug plan? Does that suggest not only uncertainty but chaos?

Mr. DASCHLE. The Senator from Florida has put his finger on one of the big concerns many Members have, the volatility, as he called it, the revolving door.

What private insurance companies have stated in the past, insuring drug coverage for seniors is almost like insuring for a hair cut. A hair cut is inevitable. So is the utilization of prescription drugs for seniors. Because we cannot make the actuarial analysis work, there is no choice; either not to go in or to be significantly subsidized to make a profit, to make this work. That is why for so long we have not seen Medicare+Choice work very well. It has not been adequately subsidized and ultimately people have just not found it in their interest to sign up.

What we have seen is that the Medicare system has worked, has served this segment of our population very effectively, and we are simply trying to ensure that there is some stability. If seniors want to stay with Medicare, let them do so, rather than this revolving door, rather than being the guinea pigs in the private sector to find a way to devise a formula, where some private insurance companies could offer benefits that may or may not work over a period of years.

This process of selection and deselection and analysis and ultimately implementation in a matter of 3 months every year could pose some serious problems for seniors in Florida or South Dakota.

Mr. NELSON of Florida. Therefore, we could clear up that uncertainty, stop that revolving door, if, in fact, we gave seniors the automatic choice they could get their prescription drugs through Medicare, but if they had a better option, a more favorable menu of prescription drugs in the private sector, they could opt for that?

Mr. DASCHLE. That is exactly what we would be suggesting with the first amendment the caucus will propose. The distinguished Senator has characterized it exactly right. Why not give seniors a little more choice? But with that choice, perhaps a little more certainty that regardless of what may happen in the private sector they will always have the Medicare plan available as a choice. That is all we are asking. If Medicare cannot compete effectively, no one will use it and everyone will go to the private sector. If it can compete, if it can provide a comparable benefit, why not have it, instead of going through this backup business every year.

That will be a key priority amendment for us when we have the debate.

Mr. NELSON of Florida. I would like to ask one more question of the distinguished Democratic leader. At the end

of the day, if we are not able to improve the bill with some of these amendments that have been discussed, it is either yea or nay. If we know that this kind of chaos and uncertainty is coming down the road when the legislation kicks in in 2006, is the theory of the Senator from South Dakota that half a loaf is better than no loaf at all?

Mr. DASCHLE. I have come to the conclusion, that this may not even be half a loaf but it is a start. As a start, it affords an opportunity to come back in 2 months, 2 years, within the next two decades, and gives us a chance to build. It has the elements of a foundation upon which we can improve a system of prescription drug health care delivery to seniors for the first time in our lifetime, for the first time in the lifetime of Medicare. That to me is a valuable asset to put in the bank so that I am prepared to accept the many deficiencies in this bill in an effort to get something started.

I don't expect I will enjoy unanimous support for that point of view within our caucus, perhaps within the Senate. But it seems to me we have to start somewhere. If we fall victim to making the perfect the enemy of the good, then I believe we will have lost yet another year and there will be no help for seniors under any circumstances. I don't find that acceptable.

Mr. NELSON of Florida. I thank the Senator from South Dakota.

Mr. DASCHLE. I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ENSIGN). Morning business is closed.

#### PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Resumed

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will proceed with consideration of S. 1, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1) to amend title XVIII of the Social Security Act to make improvements in the Medicare Program, to provide prescription drug coverage under the Medicare Program, and for other purposes.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise today to praise the exceptional commitment of Chairman GRASSLEY as chairman of the Senate Finance Committee, ranking member, Senator BAUCUS, to meld both political and policy differences and produce a bill that can garner support of 16 members of the Finance Committee, 16 Members of the Senate Finance Committee who represented every facet of the political spectrum.

That they were able to execute this extraordinary achievement and produce this bill, especially less than a

year after the committee process was bypassed altogether, is a testament not only to their skill but also to their passion for this issue.

They have built upon the leadership that has been provided by the President, who challenged the Congress to enact a Medicare prescription drug benefit, offered principles, and more recently issued the charge to the Congress to have a bill on his desk in July. The Senate majority leader has been steadfast in his commitment not only that a markup should be held in the Finance Committee but also to ensuring we had a timetable to make the process work and to have this legislation on the President's desk in July. Thanks to his determination and also to the determination, commitment, and long-standing contributions made by my colleagues, Senator HATCH, Senator BREAU, and Senator JEFFORDS, along with Chairman GRASSLEY and Senator BAUCUS, with whom I have worked over the past few years, seniors will be able to celebrate a second independence day this summer: Independence from the crushing cost of prescription drugs.

As one who teamed with Senator WYDEN almost 6 years ago to forge this first bipartisan prescription drug coverage bill in the Senate, I know it has been a rather lengthy road that has led to this day, but it has been a much longer and more arduous journey for America's seniors who cannot afford to wait any longer for Washington to act. So I am pleased we now stand on the brink of passing legislation that will provide every senior with the security of a comprehensive prescription drug benefit under the Medicare Program. That means we have the opportunity to pass this benefit this month and to have it on the President's desk in July.

We have certainly come a long way since I started in this process with my colleague, Senator WYDEN, almost 6 years ago, when we fired some of the opening shots in this legislative battle. We progressed from the \$28 billion former President Clinton proposed for a prescription drug proposal to the \$40 billion program that we established—Senator WYDEN and I, in the Budget Committee as members of that committee, for a \$40 billion reserve fund over 5 years—to finally enacting a reserve fund several years later, again, a reserve fund for more than \$300 billion. Ultimately, we had the proposal last fall for \$370 billion, and then the bipartisan bill that included that amount of money, and then, of course, the \$400 billion that was proposed by the President this year.

I remind my colleagues that is almost \$200 billion more than the President originally initiated for a proposal just last year. So we have come a long way in this process over a 6-year period, from \$28 billion to \$40 billion to \$300 billion to \$370 billion to \$400 billion right now.

There are those who argue they have not been included in the process that has brought us to the floor of the Sen-

ate this week, but I can say we have had extensive hearings in the Senate Finance Committee. I remind my colleagues, since 1999 the Finance Committee has held 30 Medicare hearings with 8 focused specifically on the creation of a prescription drug benefit. Last year, we spent 2 weeks on the Senate floor considering 5 different initiatives. During the Finance Committee's consideration of this bill last week, the chairman allowed an extensive discussion of the issues and more than 136 amendments were filed.

The bottom line is the policies in this consensus bill certainly were not achieved in a vacuum. They are the combination of 5 years of vetting and bipartisan bridge building. They are the direct descendants of last year's tripartisan bill that we spent 2 years developing, meeting every week. That was, again, Chairman GRASSLEY, Senator BAUCUS, Senator BREAU, Senator HATCH, Senator JEFFORDS, and myself, and this ultimately resulted in an evolutionary process of numerous iterations of various legislative initiatives and provisions. It has been a healthy competition of ideas that has been forged into this piece of legislation today, recognizing it is virtually impossible in a 51-49 Senate to design the largest domestic program, in nominal terms, ever created and to pass the most significant enhancement of the Medicare Program in its 38-year history with a "my way or the highway" approach.

Concessions must be made. Thankfully, they have been made in arriving at this policy equilibrium that acknowledges, not only what is politically possible but, most critically, what is workable and meaningful and effective for America's seniors. The President made concessions, Republicans made concessions, Democrats made concessions, and then there were concessions made across the ideological spectrum in each of our respective parties. But, in the final analysis we also have acknowledged that if we want to pass a prescription drug benefit, then we have to achieve a consensus to ensure that seniors get this benefit this year and now.

As a result, we maintained that there were certain principles that had to be adhered to in the development of this legislation. Certainly it maintained the four principles we established when we designed the original tripartisan plan.

First of all, the benefit must be universal—that is the No. 1 priority for seniors, ensuring that any new benefit is available in every region of the country regardless of whether you live in an urban area or a rural area—and that you could receive this benefit at the lowest monthly cost possible; that the benefit be targeted, with lower income seniors receiving the most assistance, with limited cost sharing and reduced or eliminated premiums; that the benefit be comprehensive, providing coverage for every therapeutic

drug class and category from the generics to the most advanced innovative therapies, while at the same time providing seniors with a choice in plans; and that the benefit produce real savings.

In this bill, an individual with an annual income of \$15,000 per year, and drug expenditures of \$7,000 per year, would save \$6,000, an 80-percent savings. A couple with an annual combined income of \$30,000 and combined drug expenses of \$5,000 would save \$1,385, a 28-percent saving.

All of these principles are essentially the ones that we developed in the tripartisan plan and even before that, when, with my colleague Senator WYDEN, in the legislation we introduced back in 1998, after months of intensive research and outreach and negotiations, we became more convinced than ever, working across the political aisle and also understanding the policy dynamics and what undergirds the Medicare Program, we had to create a universal benefit under the Medicare Program with a subsidy to help lower income families pay for those premiums.

Moreover, because we believe individuals should have the same ability Members of Congress and Federal employees enjoy to choose the coverage that best suits their needs, seniors would be able to select their coverage from a variety of offerings by private insurers.

Then, as today, there are those who felt that any meaningful, reliable benefit should be a Government-run program. But we also learned from the debate last fall, when we considered various proposals across the political spectrum. We considered a Government-run prescription drug benefit program and we got various estimates from CBO that at the minimum it would cost from \$600 billion to more than \$1 trillion by certain estimates. That is a problem because, when we have a performance-based program that doesn't have any risk involved in delivering that program, the costs go up.

We also saw with that approach that the program would be sunsetted after 7 years, to mask the true costs, so that seniors wouldn't have the true benefit of that program after 7 years because we could not contain the costs with a Government-run program. Obviously, it would affect the future liabilities and the solvency of the Medicare Program, which we know is going to be a serious problem down the road when we have more seniors retire.

So, finally, we decided that an approach of that kind ultimately would have significant restrictions. Last year's bill, when it embraced a Government-run program, not only did it sunset, but it also statutorily limited the number of drugs a senior could purchase within a therapeutic class to just two.

So that is why we diverged from that road of going down the path of a Government-run program, so they can

make sure seniors have options, and also so they can have the availability regardless of where they live in America. Our bill today puts no limit on drug coverage because seniors shouldn't be limited in their options for treatment, just as they also shouldn't be limited in their options for coverage. The fact is, the one-size-fits-all approach doesn't work when it comes to writing prescriptions. And it certainly won't work when it comes to prescription drug coverage either.

The question is how to provide seniors with choice without undermining the integrity of the basic tenets of the Medicare Program. That was the major issue that confronted us in developing the tripartisan plan and certainly the proposal that is before us today. I believe the answer is to allow seniors to utilize the traditional and the familiar fee-for-service delivery method.

Over the years, people have come to feel comfortable with this approach and with this model. There are those who have already been a part of this program, and those who will be retiring and may want to join a fee-for-service but at the same time be allowed access to other plans that are developed by private insurers which may be better able to tailor the differences to suit the varied needs of seniors today. This necessitated a give-and-take in this legislation.

Specifically, some have criticized this plan for not having a defined benefit. But a defined benefit means all benefits will look alike, which brings us back to the one-size-fits-all approach. Rather, under this legislation, plans have the flexibility to offer the standard benefit as prescribed in the statute or to offer a benefit that is actuarially equivalent to the standard option.

The guideline insures that all plans will have the same \$275 deductible, \$3,700 in true out-of-pocket costs for stop-loss coverage, and the total value. But it allows plans to vary cost sharing requirements between the deductible and stop-loss to create options that are the most appealing to the beneficiaries in that particular region.

In other words, with this legislation, the value of the benefits must be the same—not necessarily the benefits themselves. Again, it comes back to choice. Seniors will be able to choose. They can do so secure in the knowledge that those plans offered by private insurers include benchmark standards.

This bill's requirements ensure that the overall quality of those standards is protected and preserved in the kind of coverage that will be delivered under this proposal.

In order to satisfy the concerns of those who say that offering numerous private plans may be disrupting or confusing to seniors, the bill instructs the administrator for the Center for Medicare Choice to enter into 2-year contracts so seniors will not have to change plans every year if they are happy and content with the services

they are receiving. This also should act as an enticement or inducement to private plans to participate because it provides them with the stability as well.

Moreover, the new program builds off of strict consumer protection from current law under the Medicare+Choice Program that requires the administrator to approve marketing material and provide educational materials to help beneficiaries compare and contrast benefit options.

Remember, the model we are using is the Federal Employees Health Benefits Program that serves Members of Congress as well as Federal employees. In fact, the average age of a Federal employee enrollee is 61. Choice works for them. Yet we cannot lose sight of the fact that over 80 percent of current fees voice strong support for the program and may not want to change. They may not want to test the unproven.

That is why we believed it was critical that this bill provide an equal drug benefit no matter which option a senior may select because more than 80 percent of seniors are now with the current Medicare fee-for-service program. Because those new retirees in this next decade may be more accustomed to what would be delivered under a preferred provider network, we wanted to offer options and choices among the plans that seniors could select without undermining the integrity of the existing Medicare Program.

I know some of my colleagues would have preferred to offer a differential benefit when it came to the prescription drug coverage. Depending on which program you enrolled in, they wanted a better benefit under the private plan as an incentive to participating in the privately created model, known as PPO.

Again, we have no certainty as to how these plans will work. We obviously have a track record for the traditional fee-for-service program. We know how that program works. But we don't know how the privately delivered program will work in the final analysis. That is something we will learn about as time proceeds.

CMS predicted, for example, that 43 percent of seniors would participate in private plans. But the Congressional Budget Office estimated that only 2 percent would participate in the private programs.

What happens in the event private prescription drug benefit delivery plans don't flourish in a particular region as projected? We don't have the traditional fee-for-service program to fall back on. What then happens? We can't afford to go back to the days before the Medicare Program was created and instituted in 1965 because those were the days of patchwork coverage that varied widely, if it existed at all for seniors. Again, it depended on where you lived or if you had any kind of medical access or if you had health insurance, which in many cases seniors didn't. That is why we established the Medicare Program back in 1965—so that we

created evenness, fairness, and accessibility for all seniors—a platform of a level of care for seniors in this country regardless of where you lived in America, regardless of your income. That is why we felt and strongly believed that we needed to extend fairness to everyone. That was the spirit of the Medicare Program in the first place.

Providing a differential or an equal prescription drug benefit is just one of the many sound compromises in this legislation, but at the same time it is consistent with embracing the universal principles of the Medicare Program.

I know some have said we have already created a private delivery health option that is doomed to fail; and, that it would hinder the private market so that plans will never possibly participate in this program.

In fact, we have worked very closely with insurance actuaries and firms that we hope to attract so that we understand how they make business decisions as well as how they deliver care under those plans and with whom they negotiated to develop those networks and those plans. With that knowledge, we have incorporated a number of mechanisms in this legislation before us today. Those mechanisms include risk corridors, reinsurance and premium stabilization accounts which are intended to build a stable, productive model that we believe will attract and keep companies in the programs. That is very important.

We think these are the types of approaches and methodologies and procedures that will attract private insurers to participate in the programs on a regional basis.

Furthermore, we are instituting new cost-sharing options such as combining the deductibles for Part A and Part B services—a copayment system that better resembles the private sector today.

For example, under the Medicare Program, there are many copayments for preventive health care services. We happen to think that is in the wrong direction, that is the wrong emphasis. There are no copayments under this model for preventive screening. That is very critical. It is important to allow seniors to have access to those types of protective mechanisms that helps prevent more serious illnesses down the road.

It also provides a catastrophic cap for medical services which currently is not included in the Medicare Program.

Again, there are many upgrades and updated approaches to the private delivery model that do not exist in the traditional fee-for-service program.

Again, people will have choices in making decisions as to whether this better works for them or whether they prefer the kinds of support and insurance included in the Medicare Program under the fee-for-service as we know it today.

Again, we are establishing a structure that better resembles options de-

livered in the private market in this newly created private plan to offer more choices to seniors and to determine which structure is more attractive for their needs.

Again, in offering this option, I believe—and many of us believe—that it was also important not to undermine the fee-for-service programs by instituting unproven choices. We do not know whether these privately created systems will work in every part of the country.

We do not know who they will negotiate with in that region for providers so that seniors have access to a range of providers and specialists across the board which, obviously, is what the traditional fee-for-service program provides. So there is no way to guarantee that private companies will deliver services in all parts of the country.

This concern is especially acute for those of us who represent rural States such as Maine, where no Medicare+Choice programs operate. We understand there have been many problems for many reasons as to why the Medicare+Choice Program does not work very well in many regions of the country. It works well in some but not in many parts of the country.

So we learned from those lessons, and we developed a fallback proposal in this initiative that provides security to current Medicare beneficiaries or future beneficiaries that no matter where they live, we ensure that in regions where private plans choose not to participate the Government will contract with companies, like pharmacy benefit managers, to deliver the benefit.

Some have criticized this option, saying it will remove incentives for plans to participate in risk-bearing models. This bridge is necessary to address Members' and beneficiaries' legitimate fears that they could be left out of the coverage. That is important because I think it is essential we have a guaranteed, seamless Government fallback. But the fallback we have designed in this legislation is one of last resort; it is not the one of first resort. It will not be triggered unless two private plans will not enter the market, and we limit the contract to 1 year because we must first do everything we can to see that private delivery systems have a chance to flourish in this program.

To further entice private plans to enter the market, the administrator is allowed to reduce the risk that a plan bears to almost nothing. Again, the goal is to attract private plans into the market, to work with them to manage their risk, and to make it an attractive market to serve while, at the same time, offering seniors everywhere a guaranteed access to care that will exist under a private delivery system because access to care should not be segmented or guaranteed based on ZIP Code.

In that light, another concern the committee took action to correct last week was the threat of large variations in the premium across regions. One of

the basic tenets of the Medicare Program, undeniably, is to provide health care benefits to seniors and to persons with disabilities for the same price. Whether you are a senior living in Arizona or Portland, ME, you will pay for the same part B premium.

We need to recognize how disparities in prescription drug benefits could lead to variations and instability for seniors enrolled in the private plans. Just consider the case of Medicare+Choice. This was an issue that was raised last week during the course of the debate on the markup in the Senate Finance Committee. The premiums in some regions of Florida, for example, in Medicare+Choice, are \$16 a month while in Connecticut they may pay \$99 a month.

Just from a basic standpoint of fairness, do we really want to create such a system for seniors with their drug coverage? So we need to level the playing field. Obviously, I don't want seniors in Maine to wonder why they are paying a different price for their premium than their neighbors across the border in New Hampshire. How can we find out if private plans are superior to fee-for-service if there are wild fluctuations and disparities between plans and the traditional benefits? So that is why we have to determine, as we proceed with this program, how best to address that issue.

Some have said we should stipulate the premium in this legislation in the statute and limit the level of variation. But according to CBO, that would result in higher costs and less efficiently run programs because plans would no longer have the incentive and the flexibility to craft benefit options that are the most appealing to seniors. As we have seen with other Government programs—whether it is job training and placement services—when Congress spells out the requirements, plans typically provide the minimum necessary and never aspire to a higher goal.

The committee unanimously adopted an amendment Senator LINCOLN and I offered that provides the Secretary of Health and Human Services the authority to adjust governmental payments to minimize any variation that may result in premiums across the regions due to variations for the standard coverage option under the new Medicare stand-alone prescription drug benefit. We also direct the General Accounting Office to study this issue once the program is operational to determine if wide variations actually materialize. I am confident these two actions will provide Congress with the information necessary to make informed decisions and will allow the Secretary to take corrective actions when necessary.

I think this is an important issue. Obviously, this is a very new program. We are testing new theories, new operations that basically reflect the state of health care today with the technologies, with the methods, with the providers, with the type of specialties



that exist because we want to be able to give seniors access to a variety of choices across the spectrum, including their access to prescription drug coverage and how it can best be delivered to seniors.

So we want to test the innovation, the creativity, and the marketplace as well. That is why it is so important to allow the flexibility to be incorporated in this legislation, but, at the same time, if it does not work in the way we hope or intend, we have given the Secretary the ability to make adjustments on those premiums because it is absolutely important that he has the authority to do so. That is why we included this in the legislation.

We will also study the issue to determine what other actions in the future must be taken to ensure those kinds of wide variations and fluctuations do not occur.

Finally, I want to turn to the last part of my discussion, which is the issue of the low-income subsidies, which I think is a remarkable aspect of this legislation.

We have improved on the tripartisan plan. We learned a lot in our efforts, in our initiatives, over the last 2 years in terms of what is essential to establish a strong, low-income subsidy for our seniors under the Medicare program.

First of all, we raised the eligibility criteria to 160 percent of poverty—which is \$14,368 for an individual and \$19,360 for a couple—from 150 percent of poverty which we included in the tripartisan bill last year, and we used the eligibility criteria under the existing Medicare low-income assistance programs to create a seamless and simple process to target the most help with premiums, deductibles, and copayments to those nearly 9 million seniors with incomes below \$12,123. The nearly 6 million seniors who receive health care coverage from both the Medicare and the Medicaid program—those known as dual eligibles—will continue to receive their drug coverage from the Medicare program. The States will receive additional assistance but this is intended to allow continuity of care and reduce confusion among the poor and the most vulnerable.

My home State of Maine stands as an example of the impact this bill will have on the 40 million individual Medicare beneficiaries. For example, in 2003, there are 19,000 seniors and disabled individuals in Maine who receive health care benefits from both the Medicare and the Medicaid programs, the so-called dual eligibles. An additional 17,700 seniors qualify for the Qualified Medicare Benefit Program which serves people with incomes below 100 percent of poverty, and they will receive the greatest level of subsidy under the new Medicare prescription drug program. And 6,100 seniors are eligible for another program that serves people with incomes below 135 percent of the poverty level.

In total, over 90,000 of the estimated 215,000 Medicare beneficiaries living in

Maine will qualify for one of the low-income subsidy programs. That is almost half of Maine's senior and disabled population. Each will receive substantial assistance each year.

Moreover, unlike the tripartisan legislation, this bill will provide assistance without an asset test to the remaining 8.5 million seniors with incomes under 160 percent of poverty regardless of their level of assets. Taken together, that is nearly half of all Medicare beneficiaries or 43 percent of the population. That is an important issue. That is a departure from the tripartisan plan last year because we did have another type of asset test that prevented 40 percent of low-income seniors from receiving coverage. It was a concern to all of us including that asset test, but we were trying to include a program under the \$370 billion window that we had for financing this program. This year we used a more consistent methodology and programs that are already familiar to seniors across the country. It is fairer. We have basically eliminated the asset test for those individuals and couples under 160 percent of poverty level.

We learned from discussions over the last 2 years that a great deal of concern existed that we were excluding a large number of people with very low income who, because of their assets totaling more than \$4,000 for an individual or \$6,000 for a couple, would not be eligible for the subsidy. We removed that asset test and, therefore, now we have 17.5 million seniors who will be eligible for low-income assistance. At the same time we ensure those under 160 percent of poverty will never be subject to a gap in coverage where they would be responsible for 100 percent of the cost. All of us would have preferred to eliminate that gap in coverage. But CBO again stated it would cost, by their estimates, somewhere in the area of \$200 billion in order to accomplish that goal. So we have to look at what is before us as a starting point, a very strong starting point.

We have to consider that nearly 88 percent of all seniors, 35 million people of the Medicare beneficiaries, that is 35 million of the 41 million Medicare beneficiaries, will spend under the \$4,500 threshold of this so-called gap in coverage. That is before counting the supplemental coverage many have that may well keep even more seniors below that gap in coverage. Moreover, it may also be likely, as with the Federal Employees Benefit Program, that this bill will tailor the benefits and offer options that don't include a gap. We are not preventing private insurers or plans from including that gap. We provide them with an actuarial equivalent benefit, the same value for everyone. They could come up with a variety of plans, including eliminating that gap in coverage. But for the 12 percent of beneficiaries who have drug costs in excess of \$4,500, and more specifically the 7 percent that spend more than \$3,700 per year in out-of-pocket costs, they

will qualify for the program's catastrophic coverage where the Government pays 90 percent of the cost.

This proposal counts toward the stop-loss coverage contributions made by the individual, a family member, Medicaid program, or the State pharmacy assistance programs which will further direct help to the lowest income seniors, those under 135 percent of poverty and those who have minimal assets.

Finally, I know many across the political aisle are concerned about including employer contributions toward the computation of the \$4,500 cap. They point to the concern that some seniors will lose their employer health care coverage because this bill doesn't count employer contributions toward that catastrophic cap and that according to the Congressional Budget Office—again we had to use those determinations in order to design the type of program we could include in this legislation within the \$400 billion—33 percent of seniors had employer-sponsored coverage in 2002. They estimate that approximately 37 percent of this 33 percent population will lose their coverage by 2013. That is approximately 4 million Medicare beneficiaries.

Obviously, this is troubling. But it is important to note that the Congressional Budget Office could not really estimate how much of this loss would be attributable to passage of this legislation. That is because employers are already dropping health care coverage for their former employees at an alarming rate. As we have seen from so many of the estimates that have been submitted to the committee, from 1999 to 2001, 7 percent of employers dropped retiree coverage. And from what we can determine, that trend is worsening, not improving.

Given the limited amount of money available, I believe the most prudent path may be to make adjustments to encourage companies not to drop their coverage but not at the expense of seniors. Obviously the priority is to make sure we get the very best benefit possible for everyone in the Medicare program and to do it, to the extent that we can, within the \$400 billion program.

I must tell you as it stands, this legislation does include a number of provisions that are intended to help employers and encourage them to maintain retiree health care coverage.

Employers can participate in this program in a number of cost-effective ways. An employer can wrap their benefit package around the Medicare benefit which means that Medicare pays first, leaving the employer responsible only for the remaining cost. An employer can also directly pay their retiree's premium under traditional Medicare instead of offering a separate plan. And finally, under the new Medicare advantage option, they can bid to be their own plan and deliver the services to their retirees, which allows them to share the costs of the care with the Government.



Finally, the Medicare Advantage Program provides the flexibility to allow employers to pay for enhancements added to the Medicare standard benefit. I supported these provisions because I believe they are fair and appropriate. But this issue remains a vexing challenge. What is the correct balance where we are not discouraging employers from offering coverage for their retirees yet not penalizing seniors who don't have the benefit of employer-sponsored coverage? That really is the problem. Any changes we make to offer incentives and encourage companies to continue their retiree coverage places seniors who don't have this type of coverage at a financial disadvantage. Obviously, that is not consistent with the tenets of the Medicare Program.

I want to continue to work with the chairman, who has indicated his interest, to explore various ways to address the issue, along with Senator BAUCUS, because it is an issue we want to explore further so that we do not add to the costs of the program because employers dropped retiree coverage.

In the final analysis, there will always be those who will question if this is the best policy. Others will be concerned about the prudence of committing the Government to such large future expenditures. I, for one, am confident we have struck the correct balance. The average senior will realize \$1,200 in annual savings, and the lowest income will see even more assistance. I realize this proposal will not help every senior in the same manner. But that is also because seniors have wide variations in drug costs.

What I do know is that the lowest incomes and those with the highest drug costs will realize substantial savings. During a time of growing deficits, this proposal is the best policy to meet the needs of this population as represented by the Congressional Budget Office estimates. This is an important issue because, again, it is getting back to the fairness and balance in the legislation and who will participate.

The Congressional Budget Office estimates that over three-fourths of Medicare-eligible beneficiaries will enroll. That is an important projection for the future well-being of the Medicare Program because you are going to have a blend in the participation that can also provide the very best benefit to those who want to enroll in the program. But you can have a blend in the regions that are developed under the new Medicare Advantage option between urban and rural of those who are healthy and those who are sicker. I think those types of blends will be a marked departure from the Medicare+Choice program.

We create much larger regions. There will be approximately 10 regions in the country. It is estimated by the director of the CMS that we could possibly have from six to eight plans participating in each region in the country, giving a breadth of choices to those who partici-

pate in the program. Overall, we should have high participation in the drug benefit program.

So this bill undoubtedly will be one of the most significant pieces of legislation that we can pass this decade, and beyond. We can make history today if we set aside our partisan differences. The time is right, the policies are right, and a prescription drug benefit is certainly the right thing to do for America's seniors. Passing this legislation will be a tangible verification of society's commitment to providing for those who have walked the path before us.

We can win this, Mr. President. We have tried before and failed. But I think the time has come for us to do what is right for America's seniors. Let us help them, help the Medicare Program to travel this last mile, and bring the Medicare Program into the 21st century.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I thank the Senator from Maine for her very fine statement. More important, a thank-you to her is warranted because of the long hours of work she has put into this subject of Medicare and prescription drugs. The strengthening and improvement of Medicare and a prescription drug program has been something the Senator from Maine has worked on for a long time. So I not only compliment her on her statement today, but I thank her for the work she has done in putting together the product that is before us. Even more so than the product that is before us, I acknowledge the work she was part of during the years 2001 and 2002 as part of the tripartisan group of Senators, including Senators BREAUX, JEFFORDS, HATCH, Senator SNOWE, and this Senator from Iowa, because it was the months of work during the spring of 2001 through the summer of 2001, and then picking up again in the spring of 2002, until we brought a bill to the floor 1 year ago now to discuss. The success of that work then laid the foundation for what we can do right now. That involved hours and hours of work for individual Members of the Senate, and more work yet for the staffs of each of those Members. So I thank her for putting in the time in 2001 and 2002, which did not yield a successful product at that point but very much made it possible for us early in the year 2003 to be before the Senate. Again, I thank the Senator from Maine for that foundational work.

I think the next speaker will be the Senator from Louisiana, Senator BREAUX. While the Senator from Maine and I might be able to say we were part of the foundation of the bill that is before us, Senator BREAUX was in the trenches digging the footing for that foundation years before we got involved, because he was a member of what was called the Commission on

Medicare, later called the Breaux Commission. Because of his work—even before our work on the tripartisan bill—I acknowledge the extra effort the Senator from Louisiana has brought to this point. So I thank him and, for a second time, I thank the Senator from Maine.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, let me first express my appreciation for the very kind remarks of the chairman of the Senate Finance Committee. I think it is only appropriate to acknowledge that had it not been for his perseverance and determination, we would not be here today. He set a very tough timeline on the Senate for considering this bill. He took it through the appropriate hearing channels in the Senate Finance Committee to bring it to this point. We had extensive staff briefings and discussions among Republican staff and Democratic staff. We had a markup that many people said was really very pleasant. We had differences of opinion, but everybody had an opportunity to be heard. I credit creating that atmosphere to the leadership of the Senator from Iowa. We have had situations during the year—the tax bill is one of them—where we did not follow that process. As a result, perhaps the product was not as good as it should have been.

In this case, I think the Senate Finance Committee, in particular, rose to the challenge, and under the leadership of both Senator GRASSLEY and our colleague MAX BAUCUS on our side, we were able to create a cohesive group of men and women who were dedicated to producing a product in a bipartisan fashion. That is exactly what happened with a 16-5 vote on a Medicare reform and prescription drug bill, which would not have been possible had it not been for his strong leadership.

To the Senator from Maine, I offer my congratulations for her involvement, dedication, and her willingness to step outside the traditional boundaries and take some chances politically, as well as substantively, in order to help produce a product which, in the end, ultimately will be something of which we can all be very proud.

I think all of us realize the time has come that it is necessary for us to step out of the traditional boundaries that may put us at risk with some constituents we all represent in order to produce a better product for those very constituents who may say don't go there; but for those who had the courage to go there, we now have a product of which we can justifiably be proud. The Senator from Maine has been a major player in all of these efforts. We appreciate that very much.

Mr. President, let me take some time, from my perspective, to try to present where we are with regard to the Medicare reform and prescription drug bill. It was in 1965—38 years ago now—that the Congress of the United States did something that had never

been done. The Congress and President Lyndon Johnson at that time made a fundamental decision that older Americans were going to receive health care benefits, and that the Federal Government had an obligation to help provide those benefits. As a result of that commitment, the 1965 Medicare Act was adopted.

Ever since then, for 38 years, seniors knew when they reached the age of 65, they would have access to a Government-run health care program. That health care program was principally designed to do what medical science said was necessary back in 1965. It provided hospital insurance coverage for seniors who went to the hospital, and it provided doctor coverage for seniors who had to see a doctor.

In 1965, those were the two fundamental ways in which people received health care in the United States. You went to see your doctor and, if you were sick enough, the doctor put you in the hospital. So for the very first time we said to senior citizens, 65 or older, when you reach that age, you are going to be part of a Government-run insurance program on your behalf.

For a long period of time it was a state of the art, as far as health care was concerned, with regard to our Nation's seniors. It has really worked. It has sort of been the envy of many parts of the world because many countries did not have the quality health care we had for our Nation's seniors. That, as I say, was back in 1965, and today is today.

While health care has changed dramatically, while science has improved incredibly so, the program that was designed in 1965 is still pretty much the same program that seniors look to in order to receive their health care.

It has been a good program, but it is not nearly as good as it should be nor nearly as good as we can make it. That is why we are here today: To create a better program, to build on what was the best in 1965, to create the best in the year 2003.

Medical science has advanced dramatically. The health care delivery system that brings about that health care for our seniors has not advanced very much at all. It is still what I call frozen in the 1960s.

Some have argued: All you have to do is put more money into the program and it will work fine. I suggest just putting more money into a 1965 model program is like putting more gasoline in a 1965 model automobile. It is going to still run like an old car no matter how much gas you put into it.

No matter how much money we put into the Medicare Program that was built in 1965, it is still going to run and operate as a 1965 model. Today, in this body, and this period of time before the Fourth of July, hopefully we will have an opportunity to do something that is as important as what was done in 1965 when the Congress made that fundamental decision to provide health care for seniors.

With what we have before us, we can create a 21st century program which takes the best in science and the best in medical care and puts it into a quality delivery system.

It is interesting to note when I talk about why the current system is deficient, one of the most important issues I bring to mind is the fact that the Medicare Program today only covers about 47 percent of an average senior citizen's health care costs they experience every year. That means 53 percent is covered by the Federal Government, but it also means 47 percent is not covered.

Where do seniors go for the 47 percent of their health needs that are not covered in this 1965 model program? If they are poor enough, they also get Medicaid, or if they look for help from their children or their grandchildren, that makes up part of the difference. Or if they are fortunate enough to have enough funds, they can buy extra insurance, called the Medigap Insurance Program, to cover the 47 percent of their health care costs Medicare does not cover.

No one I can think of in the private sector—certainly including Members of Congress—has a health insurance program that does not cover 47 percent of their health expenses. No one would want to go out and buy a health insurance program that did not cover on average 47 percent of their needs. It would be a terrible buy. You want something that covers as much as possible, and Medicare does not do that.

People are forced to buy the extra insurance or become so poor that they qualify for the Medicaid Program or have their children or grandchildren or perhaps just their friends help them with their Medicare costs that the program does not pick up.

In addition, one of the most important fundamental advances in health care is the advent of the prescription drug program that has saved lives and allowed people to live better lives. The correct and proper use of pharmaceuticals today can keep people out of hospitals or it can make their hospital stay shorter. It can treat diseases that are prevalent today and make our lives better and our families more comfortable. Yet pharmaceuticals are not even covered by Medicare unless you happen to be in the hospital and physicians give you the pharmaceuticals in the hospital. Once you leave the hospital, the Medicare Program does not cover the pharmaceuticals.

It is a perverse incentive to stay in the hospital longer so you get your drugs paid for, when really you ought to use drugs to get out of the hospital sooner or to not have to go there at all.

The Medicare Program is full of deficiencies. It does not cover eyeglasses. It does not cover pharmaceuticals. It does not cover many of the preventive health care measures we should cover. In addition, the Medicare Program does not do something that today is one of the most important functions we can

do in health care, and that is preventive medicine.

We talk about how high health costs are in this country today, and one of the principal reasons is because people generally do not go to the doctor until they are sick. In reality, they ought to be going to the doctor when they are well to find out what they should be doing in terms of preventive care to make sure that whatever they are prone to have later in life is pushed back as far as possible or perhaps even eliminated. Preventive care can do that, but the Medicare Program does little, if any, preventive care, and it should not be like that.

In fact, private health care systems work very hard to create preventive health care measures to keep the cost of health care down, to get people to live healthier lives now so their health care costs later are less or perhaps even eliminated. Medicare does not do that.

The one thing Medicare does not do very well is to bring about innovation. We have to have an act of Congress to do many functions that the private sector can do automatically. The Medicare Program requires an act of Congress, as I have cited many times before, to try to bring about new innovative ways of delivering medicine.

We actually had people come to our office and say: We need an act of Congress because we now have a medicine that can be orally administered instead of intravenously injected, but Medicare does not pay for it unless it is intravenously injected. So we need an act of Congress to allow Medicare to pay for something that can be orally administered in the form of a tablet. That is not how medicine should work in the 21st century.

We have before us a medical program for our Nation's seniors that was state of the art in 1965. It has been a wonderful program. It has been a program that has saved lives and a program that has made people's lives much better, but it is a program that is frozen in the 1960s.

We have today the opportunity to create a modern 21st century health care delivery program that looks out over the country and decides what is the best way of delivering health care; how can we make it work better. That is the proposal before us.

When I had the great privilege of chairing the Medicare Commission in 1998, we had numerous witnesses give us their suggestions. We had the time to listen to the theory about what we ought to do with the Medicare Program. To a large extent, the groups that came before the commission fell into two different groups. The first group said: The Federal Government should do everything in this area, the Federal Government should run the program from top to bottom, and the private sector should not be involved at all because we cannot trust the private sector, which has a profit motive as their main goal, to be involved in

delivering health care to our Nation's seniors. That camp, therefore, said the Federal Government should do everything.

On the other hand, a second group of folks who came before the committee took the position: The Federal Government should not do anything in delivering health care. We should turn the entire program over to the private sector, and the private sector ought to run the program, deliver the health care benefits, because they can bring about competition, they can bring about innovation, and the Federal Government cannot do that. So the Federal Government should not be involved at all.

We had a fundamental difference between the two camps that said the Federal Government should do everything and those who said the Federal Government should do nothing at all. The beauty of what we have today is that we attempt to combine the best of what the Federal Government can do with the best of what the private sector can do into a single delivery system and present that to our Nation's seniors as a vast improvement.

For me, it was never an either/or choice. It was never let the Federal Government do everything or require them to do nothing at all, but, rather, to bring the two sides together. I think by doing what we did is why today we see so much bipartisan support for this concept.

There were many of my Republican colleagues who had a preference for letting the private sector do it all and many of my Democratic colleagues said, no, the Federal Government should do it. But when we have combined the best of what both can do, we have created a system whereby I think we will have bipartisan support with a very large number of Members being able to vote for this on final passage. That in itself is a great victory.

Many people thought it would never be possible. Had we taken the position of one or the other, it probably would have been a very divided vote. On the other hand, by combining the best of what both sides could do, we have, in fact, created a better system, both from a fundamental standpoint of good government, and we have also created a political proposition with which both sides can feel comfortable.

What we have attempted to do—and I tried to take hundreds of pages of legislative language and put it all on one chart which in itself is a pretty difficult job—but what we have done, as my chart indicates, is to say that the beneficiary, of course, being our older Americans eligible for Medicare, starting in January, because we cannot get this thing started overnight, every Medicare beneficiary will be able to get some help and assistance on their prescription drugs under the current program; every beneficiary will start with a basic discount card available to all Medicare beneficiaries where they will be able to take that medical beneficiary card that is a product of the

Federal Medicare Program to their drugstore, or to wherever they happen to purchase their pharmaceutical drugs, and get a basic discount which is estimated to be somewhere around 20 or 25 percent on the drugs that they have to pay for that have been prescribed to them by their medical doctor. That would be available to all Medicare beneficiaries starting in January.

Also, starting in January there will be a special assistance to low-income beneficiaries who would receive approximately a \$600 subsidy in addition to the discount card. So we are saying all beneficiaries would get the discount card. They could go to the drugstore, get their pharmaceuticals filled, but if they are a low-income beneficiary they would also receive an additional subsidy of approximately \$600.

It is really interesting to note, when we talk about drugs for seniors—and the fact is that most seniors on average have approximately a little over \$2,000 a year in prescription drug costs. It is projected to go up to a little over \$3,000 by the year 2006 when the big program kicks in. That is what the average senior has to pay for drugs. Many of them currently are low-income seniors and Medicaid pays for all of those drugs, or many of them have bought Medigap insurance which covers those drugs. Many of them, like my father, have a drug plan from a former employer, so they cover their drugs.

A substantial number of seniors right now have some coverage for prescription drugs, but it is not under the Medicare Program. It is by buying extra private insurance, it is by being fortunate enough to have a plan from their former employer that pays for their drugs, or many of them receive it from the Medicaid Program if they are a low-income beneficiary. That is certainly not good enough. Medicare should cover it.

So immediately starting in 2004 through 2006, under our plan, every Medicare beneficiary would get the basic discount card, plus low-income beneficiaries would get extra assistance.

Beginning in the year 2006—and I know my distinguished Democratic leader was talking about that is a long time, and 24 months is a long period of time, but we have to do it right. We have to set this new program up on a national basis. Beginning in the year 2006, every Medicare recipient would be able to stay right where they are today if they like their current Medicare Program.

I have given some of the good things it has done, and I have also tried to point out where it is deficient. There are a lot of deficiencies. If a senior is happy with the traditional Medicare Program, they can stay right in the traditional fee-for-service program that we call the Medicare Program. They can stay in this program as long as they would like it. And, yes, for the first time beginning in that year 2006,

they would also be able to stay in the traditional Medicare Program and get prescription drugs because we would establish a stand-alone drug program for everybody who stays in traditional Medicare.

That stand-alone drug program would not be a Government-run and Government-micromanaged plan. For the first time, it would use a private delivery system for seniors to be able to receive pharmaceuticals they would receive as a Medicare beneficiary. Just like I get my pharmaceuticals covered under my Government health plan, seniors would have a private delivery system. This is not turning the seniors over to the mercy of the private sector. This is still a Government-regulated program in the sense that the Medicare officials and HHS would be responsible for making sure this stand-alone drug program for seniors is run properly; that the companies that are offering the plans have the financial ability to offer those drugs.

They would utilize what we call pharmacy benefit managers to construct programs. Insurance companies would come in and offer the seniors a pharmaceutical stand-alone drug plan. The companies would utilize the pharmacy benefit managers to try to get the best possible deal they could get from the pharmaceutical manufacturers. They could utilize formularies; they could utilize a blend where it is possible to choose between brand name and generic drugs. They would be able to get the best possible financial deal that they could offer to the seniors in a drug program.

Like I said, it would combine the best of what Government can do, which would be to make sure it is being run properly, with the best the private sector could do, which is bring about competition and tough negotiation with the pharmaceutical companies and manufacturers in order to present to the senior the best possible product. The Federal Government would still be involved in overseeing it but not micromanaging it.

For the first time they will also have another option they do not have now. Beginning in 2006, every senior could stay in traditional Medicare just like it is, but at their choice they would also have an opportunity to go into a new program called Medicare Advantage. Medicare Advantage would, in fact, be a combination Federal/private sector program which would deliver to every Medicare recipient who wants to join an integrated health plan, which would provide them hospital coverage, doctor coverage, and prescription drug coverage. They would also utilize the private sector delivery system for all of those areas, not just the drugs that they would get under traditional Medicare.

To a great extent, their plan would be based on what we have as Federal employees under the Federal Employees Health Benefits Plan, where the Federal Government, through the Office of Personnel Management, sets up

a benefit plan for all of us in that plan and the Federal Government would set the standards as to what has to be met, what has to be provided, and then private insurance companies would come in and offer that coverage like they do for all of us as Federal employees.

Every year we would get a book, and the book shows us what is available, and we have to pick and choose. We pick the plan that is best for ourselves and our families. That is, in essence, what we are talking about in the new Medicare Advantage. Preferred provider organizations such as those in the Federal system would come in and offer different plans and different options to our Nation's seniors.

We want to have some standards but we also want to have enough variations so people have a choice to pick the plan best for them.

Our drug plan has a \$275 deductible, a 50 percent copayment, and an approximately \$35 premium. I happen to believe some variation is important in order for people to have a choice. Some plans may offer a higher deductible or should be able to offer that. We are working ultimately on trying to make sure there is some flexibility yet also some definitiveness about what, in fact, it is going to cost. That is important. We have achieved that appropriate and proper balance.

Beginning in 2006, seniors will have choices of staying in traditional Medicare if they want. No one will force them into picking anything else. Younger seniors, people not quite 65, moving into the new program will be used to utilizing the new delivery system and will be comfortable with it. AARP, which represents the largest number of senior citizens in this country, has taken polls of their members and has found men and women between 55 and 65 years of age prefer these options and choices and feel comfortable with preferred provider organizations which more and more citizens in this country are in.

Preferred providers are just that: a selection of preferred doctors and hospitals that can deliver these services. If you want to go outside of that system, you can go outside of that system, but it may cost you a little bit more.

By creating these preferred provider organizations you can negotiate financial deals with them that help reduce costs and help reduce prices. There are a lot of people in the country that want us to reduce prices, reduce costs, but don't want us to do anything to bring about lower costs and better prices. They say they want cheaper drugs but do not want restrictions on how much and what type and where they can get them. We cannot do both. The same with doctors and hospitals.

If you try to reduce prices, you have to get doctors and hospitals to negotiate the best price. By doing that, you may restrict to some degree where you might go to get those medical services. You can always go outside the system, but you may have to pay more for that

choice outside the preferred provider system.

I want to address the point some made: we have tried this experiment with health maintenance organizations, HMOs, and they have not worked. One of the reasons they have not worked is the way Congress constructed them and the way we reimbursed them has not been very good at all, causing a lot to move out. Some HMOs are doing well in some areas and some HMOs have gone bust in other counties.

What we are talking about is not doing this new system on a county-by-county basis. That was one of the big problems why HMOs did not work. What this bill does is create 10 geographic regions in the country. The preferred providers will come in and offer their services in a region. By creating a region, you create not just a rural area—whether it is Wyoming, Montana, or North or South Dakota, where a lot of our colleagues have expressed concern this would not work—we have created geographic regions in the country that will combine more urban areas with more rural areas so you get a better blend, a better mix. They will be required to provide those services in the entire geographic region, which gives people who provide these services a better opportunity to try and make sure it will work. In rural counties, they all pulled out because there were not enough people to make it work. We have created 10 geographic regions around the country to make it much more likely this new system will, in fact, work and work very well.

There will be a lot more debate and a lot more amendments. Our colleagues in the other body are also moving forward with this type of legislation today and for the next couple of weeks. I am ultimately comfortable that we will, in fact, be able to pass a program in this Congress and hopefully complete it before the 4th of July recess that will create a new Medicare Program for our Nation's seniors which will provide prescription drugs but also will provide a better delivery system, one that is balanced, one that combines the best of what government can do with the best of what the private sector can do. We have accomplished that.

Can this be improved? Of course. There is nothing we do that cannot be improved. We are restricted to some degree by the fact we do not have as much money as I think is truly needed and necessary in order to create a program that is one that is even better than the one I have described. The facts are, we have \$400 billion in the budget. If we had \$500 or \$600 billion or even \$800 billion we could create a program that is much better than the one we have created. But there will be time to improve. We will have the opportunity to make this an even better program in the future. Obviously, we have to take the first step. This is truly the

first step in 38 years that we have had the opportunity to take, which will bring to our Nation's seniors a better program we can always work to improve as time goes on.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAU. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAU. I ask unanimous consent the time during this quorum call be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAU. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I am happy we are here today on what I think is the first day of maybe 2 weeks of work in the Senate to pass a bill many Members thought would pass last summer but got tied up in some election year political maneuvering in the Senate and did not happen.

We have an opportunity this year—because this bill has broad bipartisan support based on the vote of 15-6 out of our committee, such a vote gives an opportunity to bring this issue to fruition—to present a bill to the President of the United States yet this summer.

Last Thursday, the Finance Committee did report out a breakthrough bill that would make prescription drug coverage a reality for 40 million Medicare beneficiaries. The committee approval was of a sweeping package of new comprehensive prescription drug benefits and other program improvements that makes very good sense but also keeps good our commitment to our seniors.

Since 1965, seniors have had drug insurance without prescription drugs. We have had health insurance without prescription drugs. By passing our bill last Thursday, the Finance Committee made history and came one step closer to changing the fact that prescription drugs were never a part of the Medicare Program unless they were administered in a hospital situation.

How did we get to the point we are today, where it looks as if we have broad bipartisan support for this legislation? This important breakthrough came because of the tireless work of our committee members, both Democrat and Republican, that has been going on over the last 5 years, going back to the time when Senator BREAU, who just spoke and deserves a

lot of credit for bringing us this far—and also Senator FRIST—led the way on prescription drugs before any of us were paying much attention or even listening. Then Senators SNOWE, HATCH, and JEFFORDS carried the torch for 2 years, working with Senator BREAUX and this Senator from Iowa on what we called then the tripartisan bill. It is tripartisan instead of bipartisan because Senator JEFFORDS officially, even though he sits with the Democrats, considers himself not a member of that party but an independent Member of the Senate.

The tripartisan effort, of which I was a part, was something on which I was proud to work but, more importantly, not just as an end in itself but, in hindsight, now I can say it set the stage, the foundation work, for where we are today on a bill that is even better than the tripartisan bill.

How do you get this far? The breakthrough came because of the President's unyielding commitment to getting something done for seniors once and for all. It takes more than just the Senate, it takes more than just the Senate and the House, it takes the President—all three—to bring legislation to what we call law.

This budget that the President put forth put real money on the table for prescription drugs—\$400 billion over 10 years. So the Finance Committee wasted no time in taking advantage of that \$400 billion that was in the budget for a specific proposal of prescription drugs and reporting out this good bill. I am glad about that; otherwise, we would not be here—without this budget leeway.

The bill we passed out of committee last Thursday night is a balanced, bipartisan product that flowed from good faith, from fair dealing, and from a commitment to consensus across party lines. So it is my hope that this same spirit will prevail on the floor of the Senate during the debate on this bill. I have no reason to believe it will not. I believe the debate in our committee, by both Republicans and Democrats, was just the type of debate you ought to have but do not often see in committees, particularly on very sweeping legislation, which is what this bill happens to be.

I intend to do everything I can to ensure a safe and successful passing of this legislation. To do that, I intend to work hard to keep the climate on the Senate floor as reasonable and most certainly bipartisan as it was in our Finance Committee through the course of last Thursday.

Of course, legislation of this size and scope does not make everybody happy. You cannot expect that it would. This bill cannot and will not be all things to all people. I expect to hear from many Senators about provisions, whether they be large provisions or smaller, less significant provisions in the bill, with which Members might not be happy. Of course, in the process of legislating, I welcome those who want to

tell me about those with which they are happy as well. Sometimes we tend more toward the negative than the positive. I think there is a lot about this legislation—most of this legislation—that is very positive.

I pledge to work with all Senators in the days ahead to address concerns people have in the underlying bill. But I will keep my eyes on that larger prize, the promise we have expressed in so many elections, both Republican and Democrat, to modernize and strengthen Medicare, to move Medicare into the practice of medicine of the 21st century. One of the major steps in that move to improve Medicare is providing a prescription drug benefit.

If we were writing a Medicare bill for the first time and we were doing that in the year 2003, it would not be like 1965 when prescription drugs were only 1 percent of the cost of medicine. Today it is a much larger part of the cost of medicine and is part of keeping people out of hospitals. Obviously, we would write prescription drugs in that 2003 brandnew Medicare bill if we were writing a brand-new bill.

I am keeping my eye on that larger prize. That prize is passage of a comprehensive prescription drug benefit that will give immediate assistance, starting next January, 2004, and continuing as a permanent part of Medicare, to every citizen in America. If I were to generalize about a prescription drug benefit: First, it is voluntary. People don't have to buy into it if they don't want. It is very comprehensive and it is universal.

The bill before us puts that prize in our path. The Prescription Drug and Medicare Improvement Act brings Medicare, then, into the 21st century. The bill provides affordable prescription drug coverage on a voluntary basis to every senior in America. The coverage is stable. It is predictable. It is secure. Most important, the value of the coverage does not vary based on where you live and whether you have decided to join a private health plan. For Iowans and others in rural America who have too often been left behind by most Medicare private health plans, this is an important accomplishment that I insisted be in our bill when delivered to the Senate floor.

Overall, we rely on the best of the private sector to deliver drug coverage, supported by the best of the public sector to secure consumer protections and important patient rights. This combination of public and private resources is what stabilizes the benefit and helps keep the costs down.

Keeping costs down is essential because what I hear from the seniors in Iowa is not about a specific program, it is: Why are prescription drug costs so high? To them, so unreasonable. Keeping drug costs down is essential, not just for seniors but for the program as a whole.

Across this bill we have targeted our resources very carefully, giving additional help to our lowest income sen-

iors. Consistent with a policy of targeted policymaking, we have worked hard to keep existing sources of prescription drug coverage viable. Our goal, ever since we started on the tripartisan proposal 2 years ago, was not to replace private dollars with public dollars. This bill accomplishes that by keeping Medicare State pharmacy assistance programs and retiree health benefits strong. Surely any change of this magnitude will have some ripple effect on other sources of coverage.

Regarding company-based benefits, our bill gives employers more flexibility than ever to participate fully in the new drug benefit.

We all know about the pressures employers face in maintaining health care coverage under mounting cost pressures. Decisions about scaling back coverage or even a company dropping it altogether are bound to be made regardless of whether we pass this bill. In the days ahead, we will work to encourage employer participation in the new drug benefit. But I am confident the balanced policy before us is a good place to start.

I would like to speak about our fee-for-service improvements in this bill designated as S. 1.

There is a very important aspect of this bill. It is called the Medicare Improvement Act for a reason. Beyond just prescription drugs, our bill is a milestone accomplishment for improving traditional Medicare, especially Medicare being delivered to rural America.

Included in our bill is the best rural improvement and Medicare equity package that the Senate has ever seen. I insisted on including it in the committee mark because the most important Medicare reforms involved fixing outdated and bureaucratic formulas that penalize rural States. This package passed the Senate 86 to 12 last month on the jobs and growth package. But it was tabled in conference between the House and the Senate.

I hope that vote is very strongly regarded today by the Senate so that we don't even have to deal with this discussion on the floor of the Senate as we did then on the tax bill.

Because this rural health package, or Medicare equity package—whatever you want to call it—was dropped in conference, the President wrote a letter shortly thereafter endorsing these same provisions. I am pleased to include them here today with his support.

At this point, I ask unanimous consent to have printed in the RECORD the President's letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,  
Washington, May 22, 2003.

Senator CHARLES GRASSLEY,  
Committee on Finance,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GRASSLEY: I want to congratulate you on Senate passage of the jobs and growth bill, and also on the passage of

your amendment to that bill which increased federal assistance to rural providers through the Medicare program.

When we met in the Oval Office in early April, we discussed our concerns that rural Medicare providers need additional help, and we committed to addressing their problems. We agreed on the need to address issues faced by rural hospitals, skilled nursing facilities, home health agencies, and physicians.

You demonstrated your commitment by passing your amendment last week with tremendous bipartisan support, and by pushing hard for it in the conference negotiations on the jobs and growth bill.

I will support the increased Medicare funding for rural providers contained in your amendment as a part of a bill that implements our shared goal for Medicare reform.

Sincerely,

GEORGE W. BUSH.

Mr. GRASSLEY. Mr. President, I thought I would read at least the last paragraph by President George Bush.

I will support the increased Medicare funding for rural providers contained in your amendment—

Meaning the Grassley amendment—as a part of a bill that implements our shared goal for Medicare reform.

What the President is talking about in this letter is just exactly what we have before the Senate—the same amendment included in this prescription drug bill on rural equity that passed the Senate 86 to 12 a month ago.

We have the prescription drug bill and the Medicare reform bill before us. These two are married up at a point that the President's letter refers to.

I want people to know that including this is something I discussed with the President on at least two occasions before his May 22 letter to me. One time in early December when the President asked me to come to the White House to discuss early on the process for moving this legislation along, I had an opportunity to remind him at that particular point about the speech he gave in August 2002 in Davenport, IA, during a political event at which he appeared for Congressman NUSSLE of Iowa. The President rightly complimented Congressman NUSSLE for leading efforts in the other body to help rural equity. I reminded the President that the short reference he gave in his otherwise long speech was used by Congressman NUSSLE in his TV ads in eastern Iowa during last fall's election. I wanted the President to be reminded that all Iowa heard him—not just a few Republicans at the NUSSLE campaign event in August—but all Iowans heard him throughout the fall campaign with parts of his speech being reproduced on this campaign ad.

I also had an opportunity early in April to talk to the President when the President once again visited with me about provisions of the prescription drug bill. He makes reference to that in the second paragraph of the letter. He said:

When we met in the Oval Office in early April, we discussed our concerns that rural Medicare providers needed additional help, and we committed to addressing their problems. We agreed on the need to address

issues faced by rural hospitals, skilled nursing facilities, home health agencies, and physicians.

The President is well aware of his communicating this directly to the people of Iowa even before I had my discussions with the President on these issues. I am glad the President is committed to fulfilling his statement to the people of Iowa that he made last summer.

This rural health care safety net is otherwise coming apart. That is why this rural equity issue is so important. The bill before the Senate begins to mend it. The hospitals and home health agencies in rural America lose money on every Medicare patient they see. Rural physicians are penalized by bureaucratic formulas that reduce payments below those of their urban counterparts for the very same service. Our bill takes historic steps toward correcting geographic disparities that penalize rural health care providers. I will summarize some of these.

On hospitals, we eliminate the disparity between large urban hospitals and small urban hospitals, as well as rural hospitals, by equalizing the inpatient-based payment. The hospitals in my State and other rural areas are paid 1.06 percent less on every discharge. That is a \$14 million loss every year just for my State. It is time to make this change permanent.

We also revised the labor share of the wage index in the inpatient hospitals. The wage index calculation kills our hospitals in rural areas. They have to compete with larger hospitals in bigger cities for the same small pool of nurses and physicians. But because of the inequities in the wage index, they aren't able to offer the kinds of salaries and benefits that attract health care workers in cities.

Our bill begins adjusting the labor-related share downward to correct these inequities. We strengthen and improve the Critical Access Hospital Program which has been so successful in keeping open the doors of some of our most remote hospitals.

I think in my State of Iowa, almost a third of our hospitals have changed to what we call "critical access hospitals."

Also, in this bill, we create a low-volume adjustment for those critical access hospitals and for other rural hospitals that aren't able to qualify for the Critical Access Hospital Program.

These hospital corrections are not partisan rhetoric. They are supported by the nonpartisan Medicare Payment Advisory Commission, by the Center for Medicare Systems Administrator—and he did that in a recent letter to the House Ways and Means Committee—and also by 31 bipartisan members of the Senate Rural Health Caucus.

For doctors, our bill removes a penalty which Medicare imposes on those who choose to practice in rural States. Medicare adjusts payments to doctors downward based on just where they live. We believe the value of the physi-

cian service is the same regardless of where that doctor may live. Medicare doesn't recognize that. Our bill begins to change that.

Our bill also provides assistance to other rural health care providers such as ambulance services, and home health agencies which millions of seniors in rural areas rely on every day.

Providers in rural States such as Iowa practice some of the lowest cost, highest quality medicine in the country. This is widely understood by researchers, academics, and citizens of those States, but it surely isn't recognized by Medicare. Medicare, instead, rewards providers in high-cost, inefficient States with bigger payments that have the perverse effect of incentivizing overutilization of services and, in the end, giving poor quality.

These policies are paid for, not by taking resources away from the prescription drug package or by taking money away from those high-cost States but by other modifications to the Medicare Program that makes just plain, good policy sense.

These rural health care provisions are a fair and balanced approach to improving equity in rural America. My colleagues on the Finance Committee—a lot of them from these same rural States—recognize that. And I think on this vote we had a month ago I can say that the full Senate recognizes that.

I would speak last about the Medicare Advantage or the preferred provider organization parts of our legislation. Because beyond prescription drugs, and beyond the issue of rural health care, our bill goes to great lengths to make better benefits and more choices available for our seniors. In fact, one of the things that has been a focal point of this legislation over the 2 or more years we have adopted it has been to give seniors the right to choose.

Mr. President, I see that you are rapping the gavel. Can you tell me what that is all about?

The PRESIDING OFFICER. The Senator's time has expired. The time until 12:30 is equally divided.

Mr. GRASSLEY. Could I ask, since there are not other people here, maybe for 3 more minutes?

Mr. BREAU. Mr. President, I would respond, Senator DORGAN wants 15 minutes, and then that is it.

Mr. GRASSLEY. I will put the rest of my statement in the RECORD.

Mr. BREAU. It may work out. How much time do we have, I ask the Chair?

The PRESIDING OFFICER. Thirty-seven and a half minutes.

Mr. BREAU. That is fine. Go ahead.

Mr. GRASSLEY. Well, the Senator from North Dakota is here.

Mr. BREAU. I say to the Senator from North Dakota, the Senator wants to complete his statement.

Mr. GRASSLEY. Two more minutes?

Mr. BREAU. Two more minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we want to give seniors the right to choose in as many areas as we can. That is why I use the word "voluntary." And that is why I use the phrase "the right to choose what they might consider better Medicare programs than traditional."

Our bill specifically authorizes provider organizations to participate in Medicare. The idea is these kinds of lightly managed care plans more closely resemble the kinds of plans that we choose for the Federal Government and which close to 50 percent of working Americans have today but only 13 percent of the people in Medicare have that today.

Preferred provider organizations have the advantage of offering the same benefit of traditional Medicare, including prescription drugs, but on an integrated, coordinated basis. This bill creates new opportunities for chronic disease management and access to innovative new therapies.

PPOs might not be right for everyone. We are going to let seniors make that choice. Our bill sets up a playing field for preferred provider organizations to compete for beneficiaries. We believe PPOs can be competitive and offer stronger, more enhanced benefits.

In the days ahead, I will be working with colleagues on both sides of the aisle to ensure that we set up the right system, one that is truly competitive and viable for these preferred provider organizations. No senior has to choose this new program. Our prevailing policy has been, and always will be, one that lets seniors keep what they have if they like it with no changes. All the seniors, regardless of whether they choose a PPO or not, can still get prescription drugs.

We have 2 long weeks ahead of us. My commitment is to stay here until the lights go out to ensure that we pass a balanced bipartisan bill.

I thank my colleagues on the Senate Finance Committee for their fine work to get us this far.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield 15 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, before Senator GRASSLEY leaves the floor, I want to tell him that one piece of this legislation that I think is particularly important are the provisions dealing with Medicare reimbursement for rural hospitals and other rural health care providers. I know he talked about how this Senate has dealt with this concern before, and we have. In fact, we had a very strong vote on it. But at this point, significant legislation has not been signed into law.

The fact is, his constituents in Iowa and mine in North Dakota pay the same payroll tax out of our paychecks as everybody else in the country, ex-

cept we do not get the same reimbursement for much of what our providers do. And the result is, some very important health care facilities in smaller rural States, in smaller communities, are struggling and having an awfully difficult time making it because the provider reimbursement system is not fair.

I want to compliment my colleague from Iowa and others who have worked on this. I have been pleased to work on it some, but his leadership is very important in this area. That is one piece of this legislation to which I think we need to pay some attention. I will be pleased when the President signs a bill that includes these provisions, and so will many of our rural health care providers who have waited a long while for it.

Having said that, let me make a couple of comments about the broader piece of legislation and why we are here.

I think Medicare has been an excellent program for this country. Prior to the creation of the Medicare program, over one-half of the senior citizens in America had no health insurance coverage. They reached their retirement years—having worked all their lives, in most cases—and discovered that when they were in their sixties, seventies, and eighties there was not a traffic jam of insurance agents or insurance companies wanting to see if they could fully cover their health insurance needs once they have reached 70 and 80 years of age.

What they discovered was that at that age the cost of a health insurance policy was almost prohibitive. The result, back in the early 1960s, is that over half of the senior citizens in our country had no health insurance coverage at all. So the Congress passed a Medicare program, which has been a remarkably successful program.

The Medicare program has meant that now 99 percent of America's senior citizens are covered under Medicare. They do not have to live with the fear of not having some basic health care coverage when they reach retirement age. When they reach their declining income years, Medicare is there.

It has been there, and will be there. It has been a remarkably successful program.

Some say: But there have been financing problems with Medicare. Yes, that is true, and they are all borne of success. By that I mean people are living longer and better lives. As a result of that, there have been some financing issues and some financing difficulties with Medicare. We would not have any financing issues at all if we just went back to the old life expectancy, but people are living longer, better, more productive lives. The result is that we continue to talk about how we finance Medicare.

An example of that: My brother was telling me about a friend of his a while back who, at age 89, bought a new car. She, at 89 years old, bought a new car.

He said she financed it with a 5-year loan. I guess that is optimism. But what a wonderful thing, an 89-year-old person buying a new car and getting a 5-year loan.

There was a story in the North Dakota papers some long while ago about a man who was 99 years old and still farming. They had a picture of this old 99-year-old codger. He was getting on his tractor. And the article talked about his son. His son was in the Army during the Second World War, and he came back and decided he would work with his dad until his dad retired. The son was about 74 years old, and his dad was 99 years old, and still farming. It did not work out the way the son thought. The story was about this 99-year-old still driving a tractor.

I have often mentioned my uncle who is in his early eighties. I believe he is 81 or 82 years old now. He discovered in his early seventies that he was a runner. He ran faster than most people his age. He started entering the Senior Olympics. My uncle runs the 400 and the 800 meter. He now has 43 gold medals. He has been running in California and Arizona and Minnesota. My aunt thinks he is about half goofy for an 80-year-old.

What a wonderful thing: An 89-year-old buying a car; a 99-year-old still farming; an 81-year-old running in the 400 and the 800 races in the Senior Olympics. People are living longer. That is a good thing.

However, Medicare, as it was developed in the 1960s, is basically for acute care or hospital care. If you get sick, you go to a hospital, and they help you. The medical model has changed dramatically since then and so must Medicare. That is what brings us to the Senate floor. We recognize that the prescription drugs now available that keep people out of the hospital, that allow them to control some of their health conditions and continue to lead productive lives, were not available in the early 1960s when Medicare was developed.

We come to the floor with a proposal that says: Over 30 years has elapsed since the writing of the Medicare program. It is now time to put a prescription drug benefit in the program.

Let me describe what that means in my State. We have 103,000 people who are on Medicare in the State of North Dakota. North Dakota is a relatively small State in terms of its population. It is large geographically, 10 times the size of Massachusetts in land mass, but it has only 645,000 people. We have 103,000 on Medicare. The people who are on the Medicare program paid payroll taxes all of their working lives, beginning back in the mid 1960s, and that money is what provides the capability of their being able to access the Medicare program.

Senior citizens, although they are 12 percent of America's population, consume one-third of all the prescription drugs in this country. It is probably pretty obvious to anyone who has been



around senior citizens that they often take multiple prescription drugs. It is not unusual to talk to a senior citizen who takes 5 and in some cases 10, 12, or more different prescription drugs every day. The fact is, many of them simply cannot afford to pay for these drugs. Many of them do not have prescription drug coverage through any kind of insurance plan. Because of that need, because so many of them can't afford their medicines, we propose giving Medicare beneficiaries a prescription drug benefit.

A woman came up to me at the end of a town meeting in northern North Dakota one day. She was perhaps in her late 70s or early 80s. She grabbed me by the elbow and said: Mr. Senator, I want to talk to you a moment. My doctor tells me that I must take a range of prescription drugs to control diabetes and heart trouble. The problem is, I can't afford to take them and can't afford to buy them. Can you help me?

As she began talking about it, her eyes welled up with tears. This woman, perhaps 80 years old, was stranded. The doctor said: You have serious health problems, diabetes, heart trouble, and more. Here is what you have to take. These prescription drugs will control your health issues.

She said: I don't have the money.

A widow, living on a small Social Security payment, she does not have the capability of going in to a pharmacy and paying the very high cost for prescription drugs.

Let me say there are some things that have happened we should mention. I know the pharmaceutical industry sometimes takes a look at me and thinks I am always on the floor trying to put downward pressure on prescription drug prices. That is true. It is because I believe so strongly that we need to make sure that miracle drugs can provide miracles for those who need them. Miracle drugs cannot provide miracles for those who cannot afford them.

I want to say this about the industry. First, a number of pharmaceutical industry companies have stepped up to the plate since we last debated this subject. They offer programs to provide some free medicine to low-income patients and medicine discount cards for Medicare beneficiaries who don't have drug coverage. In 2002, we are told, the American pharmaceutical companies provided free medicine to 5.5 million patients. There are several programs of this type. Pfizer, Eli Lilly, and many others have these programs.

We ought to recognize that is a good thing. We ought to say to them: Good job. Frankly, that is a positive step. But these programs are no substitute for offering a prescription drug benefit to all Medicare beneficiaries. The pharmaceutical companies, although I have significant disagreements with them about pricing issues, ought to be commended for stepping forward and providing some approaches to help those very low-income seniors who have no

recourse, no other alternatives. They have helped 5.5 million patients in the United States. But that is not a substitute for offering this legislation to put a prescription drug benefit in the Medicare program.

We are going to offer some amendments to the bill before us. I will offer an amendment or two. Some of my colleagues will offer amendments in the coming week and a half with the expectation that by the end of next week the Senate will finish its work on this bill. We will have passed legislation that for the first time since the early 1960s, when Medicare was created, will substantially improve the capability of Medicare to maintain the good health of senior citizens by adding a prescription drug benefit.

There are some weaknesses in the legislation that came out of the Finance Committee. My hope is we can address them and improve them. The legislation that came out of committee has a coverage gap that is pretty difficult. We need to fix that. There are periods where, even though beneficiaries will be paying premiums, their purchases of prescription drugs will not be covered. Those periods are, of course, first with the deductible. For the first \$275 in drug expenses there would be no coverage. And then in addition, when seniors reach \$4,500 in drug spending, their prescription drug coverage stops. Then catastrophic coverage will kick in when their drug spending reaches \$5,800. During that \$1,300 stretch between \$4,500 and \$5,800 in expenses, there will be no coverage at all. So senior citizens will be paying premiums during those months but have no coverage for the prescription drugs they are purchasing. That coverage gap needs to be fixed.

The legislation has no defined benefit or premium. We need to fix that if we can. We don't know what kind of charges would be set by the insurance companies, what the actual premium would be, exactly how would they define the benefits, and would they change or differ from region to region. I am particularly concerned that rural Medicare beneficiaries, those in smaller States, will be charged higher premiums than urban beneficiaries. We need to be very careful about that. I hope we can address some of it in amendments.

Reducing drug costs is another issue. Having just complimented the pharmaceutical industry, let me also say I believe we ought to pass the generic legislation that will tend to put some downward pressure on prescription drug expenditures. I also believe we ought to, as do some of my colleagues who have worked with me, have the global market system work for prescription drug consumers. The way the system could work, not just for Medicare but for all prescription drug consumers, is to allow those consumers to purchase the identical drug put in the same bottle made by the same manufacturing company from Canada, pro-

vided that you have a safe chain of custody. In Canada, the same medicines that are available in the United States are sold for a fraction of the price.

A pharmacist in Pembina, ND, is prohibited from going to Emerson, Canada 5 miles north and buying a prescription drug such as Tamoxifen for a fraction of the price. That pharmacist cannot now bring that Tamoxifen back and pass the savings along to a woman who has breast cancer in Pembina, ND.

I frankly think they should be allowed to do that. That is another way by which we can put downward pressure on prescription drug prices.

Well, those are some of the issues we are going to be dealing with this week.

Again, my fervent hope is at the end of this process we will, with a bipartisan piece of legislation, get the best of what all have to offer in this Chamber. We so often see legislation come to the floor of the Senate that has a pretty significant partisan split, and we often end up getting the worst of what can be provided rather than the best.

I hope in this legislation on the issue of prescription drugs and Medicare we all recognize a couple of points. One, it is long past time to do this. Were we to create the Medicare Program today, there is no question but that it would have a prescription drug benefit in it. Most of the lifesaving prescription drugs have become available since Medicare was originally written. That is No. 1. I think we are at that point where virtually everybody in this Chamber understands we ought to do this, and we ought to do it now.

The second and most important issue is we ought to do it right. There is a right way and a wrong way to do this.

First of all, the benefit ought to be reasonably simple, understandable, affordable, and provide significant benefits to the senior citizens of the country who need prescription drugs. That means simplifying this bill, trying to solve the coverage gap, and trying to put some downward pressure on prices.

I yield the floor.

Mr. BREAUX. Mr. President, I yield to the Senator from Vermont 10 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 10 minutes.

Mr. JEFFORDS. Mr. President, it is not hyperbole to start by saying that we are engaging in a truly historic Medicare debate—one that has the potential to rival the 1965 creation of the Medicare Program. Over the next 2 weeks, we will have the opportunity to consider and enact the most significant Medicare modernization in 37 years. We have the chance to do more for the health care and well-being of our Nation's elderly than has been accomplished through any recent Medicare legislation.

I commend Senator GRASSLEY and Senator BAUCUS for their work in bringing this measure to the Senate floor.

The Prescription Drug and Medicare Improvement Act is a landmark improvement to the Medicare Program

and our colleagues deserve a great deal of credit for reaching this bipartisan agreement—I would say tripartisan.

This is a large and complex bill—measuring over 600 pages. It is not at all unusual for a proposal of that size to have issues remaining and I know there are some of our colleagues for whom these issues need to be debated and addressed. So we should not be Pollyanna about the outcome. Work remains to be done.

But I have been listening to our colleagues as they have come to the floor to discuss this bill and I am encouraged by the largely positive tone of their remarks. I am encouraged because this year I sense a cautious optimism among our colleagues that this Congress—this year—we will be successful.

As our colleagues know, I have been working on various efforts to modernize Medicare and to provide a prescription drug relief for our elders for many years. Most recently, I had the pleasure and honor to work with several of our colleagues on what came to be known as the tripartisan bill. I joined with Senator GRASSLEY, Senator BREAUX, Senator SNOWE, and Senator HATCH in a 2-year effort at drafting a compromise measure that we felt could gain a majority of votes in the Senate.

It was a true pleasure working with my friends in the tripartisan group and although we were not ultimately successful last year, I am convinced that much of our effort then has contributed to the bill we are debating now. So it is with a great deal of satisfaction that I am here to speak in favor of S. 1, the Grassley-Baucus, Prescription Drug and Medicare Improvement Act of 2003.

S. 1 provides for a comprehensive, universal and affordable prescription drug benefit under Medicare. It also pioneers new arrangements with private sector-based health plans that promise to integrate traditional medical care with innovations in the areas of disease prevention and chronic disease management.

The drug benefit, in particular though, meets four principles that have guided me throughout this effort. First, this program provides a universal benefit; it is available to all Medicare beneficiaries. While I believe it is critical to provide a benefit to the poor and those with catastrophic costs, all seniors, regardless of income, will benefit from this plan.

Second, this program is comprehensive. Beneficiaries will have access to the best medicines, and will not be limited to only the cheapest ones for the sake of saving money.

Third, this Medicare drug benefit is affordable—for both beneficiaries and the Government.

Finally, for a drug benefit to be truly successful it must be sustainable. It will do little good to repeat the catastrophic failure of years past by beginning a program that we cannot carry on.

This program, which combines seniors' contributions with a Government

guarantee, will have the best chance of enduring into the future.

I believe this bill meets these four standards. It is universal, comprehensive, affordable, and sustainable.

Could it be improved? Probably. And that is why we will debate and possibly amend it this week. But this approach is a good compromise. It offers a respectable and responsible plan within the budget limitations we face. It is a good compromise. I support this bill and urge the Members here to support it as well.

In closing, I also thank several of our other colleagues who contributed so much to this effort. I think again, that the work of our tripartisan group from last year did much to pave the way to today's bill—so I thank my colleagues for letting me join with them in seeking a tripartisan solution.

Again, I thank Senators GRASSLEY, my friend of over 28 years. We have worked on this issue and many others in the past. I think this will be one of our proudest achievements.

Also, this bill would not have the balance that it does without the contributions of other members including Senators BAUCUS, DASCHLE, GRAHAM, and ROCKEFELLER of the Finance Committee and of Senator KENNEDY's efforts to bridge the divides where they existed.

As I close for today, I would like to mention that the measure we are debating this week contains many more significant provisions than just those related to prescription drugs. So I will look forward to returning to the Senate floor at a later time to discuss those provisions with our colleagues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. I yield the remaining time we have to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 12 minutes.

Ms. STABENOW. Mr. President, I thank my colleague from Louisiana, who I know has spent years focusing on the issue of health care and Medicare prescription drug coverage.

First, while I present an opposing view in terms of some of what is discussed here, I share the commitment and desire of all of us to do what is right in terms of the seniors and those with disabilities who are on Medicare who have waited for too long for us to come together and act as a body, along with the President.

I will start by commending my colleagues on both sides of the aisle who have been diligently working through a number of issues and a number of obstacles to come up with an approach they believe is the best approach or the most doable approach right now before the Congress. Certainly, Senator GRASSLEY, Senator BAUCUS, Senator BREAUX, Senator JEFFORDS, who just spoke, Senator SNOWE, and many others have been involved in these discussions.

As one who has spent a tremendous amount of time myself focusing on Medicare and the need for updating and strengthening Medicare to cover prescription drugs, I commend them for their desire and concern and hard work in coming to this point. I do not believe we are doing all we can do and should do as a country or as a Congress for our seniors under Medicare.

I do believe Medicare has been a great American success story since 1965. I agree that it needs to be modernized, and not just prescription drugs but I agree with the Secretary of Health and Human Services who focuses on prevention. I commend him for his efforts and agree with him that we need to modernize Medicare to focus more on prevention and other options that can streamline the system and make it more efficient.

I do not believe, however, that we save dollars or create a more efficient system by turning over prescription drug coverage to private insurance companies. At the appropriate point, I will be offering an amendment that will give true choice to seniors by allowing them to choose a private sector option but to also be able to remain in traditional Medicare and get the help they need if that is their choice. If we are truly talking about choice, I believe the choice should be with the senior.

This really is a question of whom we are designing the system for, whether we are designing it for the insurance companies, for the pharmaceutical companies, or for the people who are covered under this system. I am concerned that we can do a better job for our seniors if, in fact, we offer them a true range of choices.

I find it interesting at a time when I am back home in Michigan talking to the big three automakers or small businesses or others who are struggling with insurance premiums in the private sector, the premiums are skyrocketing. The average small business has seen its health insurance premiums double in the last 5 years. The automakers and other manufacturers in my State have seen their premiums go up 20 to 30 percent a year, forcing them to freeze pay increases for employees, asking them to pay a larger share of the cost, cutting salaries or, in some cases, people losing their jobs because their business cannot afford to maintain the skyrocketing premium increases in the private sector.

Given that fact, I find it ironic that we are suggesting we would save dollars by going to a private for-profit insurance model where, in fact, the premiums have been rising two or three times faster than those under Medicare; that when we look at the administrative cost difference, it is less under Medicare. When we look at the current choices we have between Medicare+Choice, which is Medicare HMOs, or traditional Medicare, we hear that studies have shown that to provide the same service through the

HMO, on average, costs 13.2 percent more than if it were provided through traditional Medicare.

So I question, as we have precious few dollars to work with to be able to provide the services and the care for which our seniors are asking, the wisdom of moving to a model that is rising in cost faster than Medicare. I have not seen evidence where, in fact, it will provide the kind of competition to lower the prices, which we are all looking for from the private sector at this time. In fact, what I am hearing from the business community is they want us to partner more with them, the public sector and the private sector. Because we now have our global economy and businesses competing around the world and because we are the only employer-based health insurance system among the industrialized countries, they find themselves at a competitive disadvantage and are asking to partner with the private sector to both contain costs and be able to help them compete and continue to be able to provide insurance coverage.

So in light of all of these discussions that are going on, we look at Medicare, which is the one piece of a health system that Congress in its wisdom back in 1965, along with the President, said we are going to make sure is available, universal, once one is 65 or if they are disabled, regardless of where they live; if they are in the Upper Peninsula of Michigan, Detroit, or in Benton Harbor, they know they will be able to have insurance coverage, be able to choose their own doctor, be able to get the care they need. They know what it costs. They can count on it. That is the miracle. That is the reason so many seniors overwhelmingly choose traditional Medicare rather than other private sector options.

So we come to the difficult choice now of how to provide prescription drug coverage, and there is a difference of view certainly about whether we should strengthen traditional Medicare or provide incentives, encouragement, a carrot stick—whatever one wishes to call it—for those to go into managed care. I commend my colleagues for attempting to find that balance in the middle. I believe the balance really is not struck unless we make sure that traditional Medicare is part of that choice.

I also am very concerned that we hear constantly that, in fact, we have a situation where we can only afford to go a part of the way. It is my understanding, when all is said and done, we are talking about providing most seniors—certainly middle-income seniors—with 20 or 25 percent to help with their drug bill over time. I do commend the structure for low-income seniors, but overall we know we are not providing a comprehensive prescription drug benefit with the dollars involved. It is half of what it would take to provide the same coverage we have as Senators through Blue Cross and Blue Shield under the Federal employee

health system. So we certainly are not providing what we, other Federal employees, receive for a comprehensive benefit.

I have often heard, well, we cannot afford to do that. I feel it necessary to indicate for the record one more time why it is we are talking about a system that is not comprehensive, will end for several months of the year for seniors, will not provide them what they need, and is complicated and convoluted, I believe, and that is because of another set of policies that were debated in this Congress not long ago, coupled with what happened in 2001, and that is the question of making a determination, a value judgment, that it is a bigger priority to provide tax cuts for the wealthiest, the privileged few of our country, rather than helping the many of our seniors and the disabled to be able to put money in their pockets through prescription drug coverage.

It is astounding to look at what that decision has done. We are told that the 2001 tax cuts made permanent and the other proposals passed over the next 75 years will, in fact, cost \$14.2 trillion, where the projected Medicare and Social Security deficit combined—not just Medicare but Medicare and Social Security deficit—is \$10 trillion.

This has been a conscious choice to make a decision to spend dollars in one way to help a few people in our country rather than to keep the commitment of Social Security and Medicare that we have had for many decades in our country. The fact that we are talking about an inadequate benefit that ends, that leaves coverage gaps of 3 or 4 months a year for our seniors, the fact that we are talking about an approach that does not do what they have asked us to do, is because of decisions made to take revenue and instead of investing it in health care for older Americans, instead of investing it in strengthening Social Security for the next generation, the decision was made to eliminate that revenue.

By the way, that decision has resulted this year in the highest single-year deficit in the history of our country. Unfortunately, a hole has been dug. I fear it will continue to be dug deeper and deeper with the decisions that will be made.

It is not too late to decide in this debate we will do it right—real choice, a real benefit—that we make decisions that are best for the majority of the people we represent. They are counting on us to do this right.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Utah.

**PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Continued**

Mr. BENNETT. Mr. President, I ask unanimous consent that for the duration of today's session, S. 1 be available for debate only, with the time until 6 o'clock today equally divided as under the previous order.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is clear from this unanimous consent request that we are waiting for CBO scoring on the Medicare bill. That, it is my understanding, will not be in until very late tonight. So as I understand this unanimous consent request, if we extend the time past 6 tonight, it still will be for debate only on this matter; is that right?

Mr. BENNETT. I say to the Senator, my understanding is the same as his, but I am not in any position to make a commitment.

Mr. REID. I would advise Members I don't think they can expect at 6 o'clock to start offering amendments. I don't think the bill will be ready at that time. So if we do go past 6 o'clock, I am confident it will be for debate only.

But I agree to the request at this time, that until 6 o'clock today the time be equally divided as requested by the Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, if I could, through the Chair, ask the Senator from Utah if the Senator from Utah is going to speak on the bill at this time?

Mr. BENNETT. That is correct.

Mr. REID. I ask unanimous consent that following his statement the ranking member of the Budget Committee, Senator CONRAD, be recognized to speak on this legislation now before the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Utah.

Mr. BENNETT. Mr. President, we are debating the substance of the bill that came from the Finance Committee with respect to a prescription drug benefit for Medicare. We all recognize that providing a prescription drug benefit for Medicare is long overdue, something that has been needed badly for a long period of time. I am heartened by the bipartisan nature of the vote that came out of the Finance Committee.

I am reminded of an occasion when I first came to the Senate and we began debating health care. I fell in step with the then-chairman of the Finance Committee, Senator Moynihan from New York. Senator Moynihan is one whom I met when I was first serving in the Nixon administration and he was serving as the domestic counselor to President Nixon. I felt close to him from then on.

As we walked through the door into the Chamber, I said to him: Pat, do you think we are finally going to get some health care reform this year?

And he said: Yes, I do. In the Nixon administration the President wanted it and the Democrats in the Congress said no. Later on—I believe he referred to the Carter administration—the President wanted it and Republicans in the Congress said no.

He said: This time, the President wants it and the Congress wants it and I think we are going to get it done.

He turned out not to have been right in that instance, perhaps one of the few times in his life when his reading of the political tea leaves was incorrect because we fell into wrangling. It was on some issues that were worth wrangling over, I do not want to suggest they were not, but that prevented us from focusing on the core question of whether our health care circumstance in this country needed to be improved.

Fortunately, we have now focused on the overall question of should we or should we not have a prescription drug benefit for Medicare. At least coming out of the committee, we have a strong bipartisan consensus that we should. The reason we should is very clear, if you look at the way we practice medicine.

Medicare was adopted in the 1960s, and it was patterned after the best Blue Cross-Blue Shield fee-for-service indemnity plan written in the 1960s. Now it seems that plan has been frozen in time for 40 years. Unfortunately, it has not had the regulatory flexibility necessary to deal with the changes in the way medicine is practiced. It has required Congress to step in and make those changes. As Congress has done so, Congress has demonstrated that it is slow and it can be bogged down in political challenges that prevent changes being made.

By contrast, if you go to FEHBP, the Federal Employees Health Benefit Plan, under which we and other Federal employees are covered, you find a degree of regulatory flexibility that allows the people who administer the plan the capacity to move and change quickly as the medical situation changes. Congress is not required to debate these changes and, therefore, hang them up on political considerations. That is one of the reasons why the FEHBP has been more effective in providing health care services to those who are parties to it. Clearly, we in Congress need to finally catch up to the reality that the Medicare system is outmoded and structured upon a program that desperately needs to be updated.

Back in the 1960s, the primary concern people had with their health care was the cost of going to the hospital. You went to the hospital for almost every major circumstance. Now we find through research funded by Government, through research funded by the drug companies, and products that have emerged from that research, that many of the sicknesses you used to go to the hospital for and stayed for 3 or 4 days can be taken care of by taking a pill. Yet Medicare says if you go to

the hospital and run up a bill of however many tens of thousands of dollars to stay that many days, we will pay for it. But if you take the pill that makes the hospital visit unnecessary, we will not. That clearly doesn't make sense. There is the need for the benefit of prescription drugs, and the Medicare system needs to catch up to that circumstance.

The bill that emerged from the Finance Committee encourages competition between plans. It provides us a first glimpse of breaking the lockstep mentality Medicare has had since the 1960s. It gives us an opportunity to experiment with some competition injected into the system. One of the interesting aspects coming out of this debate is the difference in expectations on the part of those who are supporting it. There are those on the left who are supporting this, saying this is just the beginning, and if we get this established, we can see a massive increase of governmental programs to bring prescription drugs to seniors. There are those on the right who are supporting it who are saying this has the degree of competition in it that will bring market forces into Medicare in such a way that we will see a massive increase in the amount of competition and the amount of market influence on holding down costs.

For both sides, this is a great leap of faith. Neither one knows whether the other is right. Neither one knows exactly what will happen. I suppose 5 years from now when the Congress gathers we can look back and say, Yes, we were right injecting a sense of competition into the bill. It has produced tremendous benefits, brought costs down, and made things more efficient. Or we might see people look at us saying, Yes, we were right passing the bill. It did bring about a major new expansion of Federal support for prescription drugs. We will have to wait and see.

But the necessity of getting a drug benefit for Medicare is driving the leap of faith on both sides. It is bringing us together in a way we haven't seen in this debate in the past.

Obviously, I am one who believes competition creates market efficiencies, and that the experiment will work in the direction of getting more competition and more efficiency rather than in the direction of getting more government involved. It is a leap of faith for me.

I share the concern of what can happen to the cost. We know Federal programs never cost what they are projected to cost. They always cost substantially more, particularly entitlement programs. For me and others who hold that view to embrace this bill and say we are willing to take this leap of faith is indeed, I think, a fairly significant step.

But I come back to the point I made at the beginning. We cannot continue to sustain a Medicare Program that does not recognize the role prescription drugs now play in the way medicine is

practiced. Even though it is a huge risk to move in the direction this bill represents, it is not as great a risk as allowing the status quo to remain and proceed any further. Medicare needs to be brought up to date. This is by no means the amount of bringing up to date I would support or that I have called for here on the floor. But it is a final recognition of the fact that Medicare is outdated, that changes need to be made, and for that reason I will take the step.

I commend members of the Finance Committee on both sides of the aisle for the careful and thoughtful way they have approached this challenge. I commend them for crafting a bill that, as I say, holds out some hope for everybody in the spectrum. But I hope they will continue to address this question with as open a mind as possible and with the firm understanding that however sacred the word Medicare is in our political lexicon, the details of the program should not be sacred but should be brought up to date at every possible opportunity to conform with the reality of the world in which we live.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from North Dakota.

**MR. CONRAD.** Mr. President, I rise to discuss the prescription drug bill and the Medicare reform package that is before us now. As a member of the Finance Committee, I was involved in the markup of this legislation.

Let me begin by commending the chairman, Senator GRASSLEY, and the ranking member, Senator BAUCUS, our former chairman, for the way in which they brought our committee together. That was not easy to do. It is an extraordinarily complex undertaking to have an expansion of Medicare of this magnitude and to do it in a way that will achieve real results.

I thank the chairman and the ranking member for the way they brought us together, and for the tone they set in the committee. We were in markup from 9 in the morning until 9 o'clock at night—12 hours of togetherness that actually went very well.

I think we all know why we are here. When Medicare was first drafted, the world was a very different place in terms of providing health care. As Senator Moynihan used to explain, at the time Medicare was drafted, the Merck Manual that contains all prescription drugs was a very thin volume. Now when we look at the Merck Manual, it is a very weighty tome. There is a dramatic change in the pattern and practice of medicine. Perhaps no better example is what happens with stomach illness. Twenty years ago, there was not much one could do for somebody who suffered from ulcers other than to have surgery. But now with prescription drugs that address the underlying causes, stomach surgery has been reduced by two-thirds. Yet, in Medicare there is no coverage for those prescription drugs. You can't have a modern Medicare without a prescription drug component.

The problem is millions of Americans don't have any coverage. If we look at an outline of where we are, we see that 38 percent of those who are Medicare eligible have no drug coverage. Ten percent get their coverage through Medicaid, 15 percent through a Medicare HMO, 28 percent employer-sponsored coverage, 7 percent Medigap, and others, 2 percent. But nearly 40 percent have no coverage.

That creates some very tough situations. And we can see there are real differences between where somebody lives, how old they are, and their income level, as to whether they are in that nearly 40 percent of Americans who have no coverage. We see for those over the age of 85, 45 percent have no coverage. For those who live in rural areas—and I represent a rural area, the State of North Dakota—50 percent have no coverage. Forty-four percent of those who have between \$10,000 and \$20,000 of income have no coverage.

What we see is the situation is going to become more challenging and more difficult as out-of-pocket expenses for prescription drug expenditures jump dramatically. In 2000, those out-of-pocket expenditures averaged \$644. By this year, it was up to \$999—a 50-percent increase in just 3 years. And in the next 3 years, we anticipate another very large increase to \$1,454 a year in prescription drug costs.

The implications of that are outlined on this chart. This shows a study in eight States. It shows the percentage of seniors who reported forgoing needed medicines, and that is listed by chronic condition and prescription drug coverage.

What it shows by the red bar is those without coverage, and it shows the percentage of seniors who did not fill prescriptions one or more times due to cost. For congestive heart failure, 25 percent of the people did not fill their prescriptions because they could not afford it; 31 percent of those who suffered from diabetes did not fill their prescriptions because they could not afford it; and 28 percent of those with hypertension did not fill their prescriptions because they could not afford it.

If we go to the next element of the chart, the percentage of seniors who skipped doses in order to make it last longer: For congestive heart failure, 33 percent of those without coverage skipped doses; 30 percent of those with diabetes skipped doses because they could not afford it; and 31 percent of those with hypertension skipped doses because they could not afford it. Obviously, that reduces the quality of care and ultimately increases the cost. Why? Because those people are more likely to be hospitalized. And it is when a senior is hospitalized that the cost really escalates.

I think it is in all our interest—both in terms of the quality of health care but also in terms of the cost of health care—that we get this right and we make the changes necessary to provide a prescription drug benefit in Medicare.

Here, outlined on this chart, are the specific provisions of this legislation. These are estimates of the basic plan which will take effect in 2006. This excludes the low-income subsidies. We will talk about that in a moment. The premium will average about \$35 a month; at least that is the projection at this point. The deductibles will be \$275 a year. From \$276 to \$4,500 of prescription drug costs a year, 50 percent will be paid by Medicare, 50 percent by the senior citizen. Between \$4,501 and \$5,812 of prescription drug costs a year, there will be no assistance from Medicare. That is the so-called coverage gap, what some refer to as the “doughnut.” This is an area in which there is no assistance, no coverage. The reason for that is not enough money. For \$5,813 and above in prescription drug costs, Medicare will provide 90 percent assistance, the senior citizen 10 percent.

I think that is one of the most important parts of this bill. I would support this bill if there were no other provision than just this one. To provide 90 percent assistance to those who have catastrophic drug costs is going to make a meaningful difference.

I was just with one of my staff members in North Dakota. Her mother had a rare form of cancer. At one point her drug costs were running \$20,000 a month—\$20,000 a month. Thankfully, she was insured. As we see, nearly 40 percent of seniors in the country are not. How many families could withstand a drug cost of \$20,000 a month? For this particular family, their drug cost now has been reduced. She is past the acute phase, thankfully. Their drug costs are still running \$2,500 a month. That is \$30,000 a year.

This provision will help people like that. It will keep people from bankruptcy. It will avoid people having to not have treatment. It will prevent crises in many families across the country.

That is not the only part that I think merits support.

As shown on this chart, these are the low-income provisions. I want to direct people's attention to this line. For those who are below 160 percent of poverty, they will get more assistance. So, for example, in that zero to \$4,500 range of prescription drug costs, Medicare will pick up 90 percent of the cost for those low-income people. They will have to provide 10 percent of the cost. This, to me, is another strong reason to support this legislation.

A third key element of this bill that I think merits support—certainly for those who have rural areas—is the beginning of the leveling of the playing field between the rural areas and the more urban areas of the country.

Just to give an example, in my home State, Mercy Hospital in Devils Lake, ND, gets exactly one-half as much in Medicare reimbursement to treat a heart ailment or to treat diabetes as Mercy Hospital in New York City—exactly one-half as much. Now, I would

be the first to acknowledge there is somewhat of a difference in cost, but it isn't a 100-percent difference. When we go to buy technology for that hospital in Devils Lake, ND, we do not get a discount. When we try to recruit a doctor, he does not say to us: Well, you are a rural area, so I will take half as much money. That is not the way it works.

So this incredible divergence, this disparity that exists in current law, needs to be addressed, and this bill will begin to address it. It does not close the gap, it does not eliminate the problem, but it does make meaningful progress. It permanently and fully closes the gap between urban and rural standardized payment levels. But unlike the legislation I introduced, it does not take effect until 2005. The legislation I introduced, along with 30 of my colleagues, would have taken effect in 2004.

It also adopts all of the other provisions of the bill that I introduced along with Senator THOMAS of Wyoming. It equalizes Medicare disproportionate share payments. Those are the ones that are used to cover the costs of treating the uninsured. It establishes a low-volume adjustment payment for small rural hospitals. It improves the wage index calculation which accounts for a hospital's labor costs. It ensures that rural hospitals are reimbursed fairly for outpatient services.

It provides a whole series of improvements to critical access hospitals, including improved payments for ambulance services, increased flexibility in the bed limit, excluding critical access hospitals from the wage index calculation for other hospitals, which will improve payments to other larger facilities, has new incentives to ensure 24-hour access to emergency on-call providers, and has new measures to assure the critical access hospitals will receive timely Medicare reimbursement. It also authorizes a capital infrastructure loan program which will provide \$5 million in loans for crumbling rural facilities.

In addition, it provides a series of other provisions which a number of us have cosponsored and put before the body, including extending a 10-percent add-on payment for rural home health agencies, many of which are under pressure to close; a new 5-percent increase for rural ground ambulance services; a new 5-percent add-on for clinic and ER visits in rural hospitals; and a new automatic 10-percent bonus payment for physicians serving in rural areas.

It has measures to address the geographic inequities in physician reimbursement, and an extension of improved payment for lab services in sole community hospitals.

This does not close the gap between rural institutions and more urban institutions, but it does make meaningful progress in leveling the playing field, and that is critically important to rural hospitals.

Let me say, in my own State we have 44 hospitals.

At least eight of them are in danger of closing because of this enormous gap in Medicare reimbursement. Over 50 percent of their patients are Medicare eligible. If things don't change, these institutions are going to have to close.

Those are positive aspects of the bill. Let me speak for a moment about what is in the bill that could and should be improved. The first that comes to my mind is the instability in the legislation. Seniors want certainty. They want to know what they are getting. But under this plan, seniors could be bounced back and forth between different plans depending on how many private drug-only plans enter an area. That is the first problem. If a senior is in a fallback plan and two private plans enter the area, they must leave the plan they are in; they have no choice in the matter. The second problem is that every time they switch between drug-only and fallback plans, their benefits could change.

Let me illustrate that for my colleagues. Seniors, when forced to move between plans—and in 4 years, a senior could be forced into four different plans—every time, their premiums could change. The only thing that wouldn't change is the stop loss amount, or at least couldn't change. The deductibles could change. The coinsurance level could change. The coverage gap could change. The covered drugs could change. And the access to a local pharmacy at no extra charge could change. That is the kind of instability about which I am talking.

Let me illustrate with this chart. I hope my colleagues are listening, or at least for those who are busy with other duties, perhaps their staffs are listening. It is very important to understand what could happen to a senior. In 2005, if there is only one private plan offered in their area, they could enroll either in that plan or in the fallback plan. Let's say this particular senior takes the fallback plan and enrolls in that for 2006. But then the next year, another private plan comes into the area. Then the senior would be compelled to drop out of the fallback plan even if they liked it and go into one of the private plans.

Say they take private plan A for 2007. Then private plan A finds it is not effective for them financially to be in the plan, and they drop out. The next year, our senior citizen could be whipsawed into a third plan in 3 years. They could be over in private plan B. Then perhaps private plan B decides they can't afford to provide this coverage. They drop out, and our senior citizen, in the fourth year, is in their fourth plan. As I say, with different formularies—that is, different drugs—available to them, with different rules with respect to going to the local pharmacy to get their drugs, with different copays, with different premiums, with different deductibles, all of these changing—if that isn't chaos, I don't know what is. This is an area we must address on the floor with amendments

in order to remove some of this uncertainty for seniors moving ahead.

For those of us who represent rural areas, the fact that only 2 percent of rural counties had two or more Medicare+Choice plans in August 2001 ought to tell us that our people are the most likely to be caught up in this whipsaw effect. Our people in rural areas are the most likely not to have two private drug-only plans available to them, or PPO plans or HMO plans. The reality is, they are not there now. In my State, there is virtually no coverage from those kinds of entities, almost none. Those who are suggesting that people are going to rush to this kind of business when the people who run the companies tell us very directly they are not going to—we ought to pay attention to that. We ought to listen to that. We ought to respond to it. I don't think it is going to do any of us any good to create a circumstance in which a senior we represent gets whipsawed back and forth between plans, changing premiums, changing deductibles, changing coinsurance, changing what drugs are covered and what are not.

There is one thing I have learned in dealing with seniors, especially those who are ill: They need simplicity. They need an assurance of what is covered, what isn't covered, and how it works. We should not be subjecting them to a changed plan every single year. That is not a plan that meets the needs of seniors.

I urge my colleagues to pay close attention to the debate when we begin to offer amendments to try to provide some greater certainty and stability to the plan.

I also am concerned about disappointed expectations. As I travel my State, when there is a discussion of prescription drug coverage, I find most people think that means they are going to get something similar to what Federal employees receive, or they think they are going to get something similar to what people in the military receive, or they think they are going to get something similar to what big companies provide. That is not this plan. Let's understand what this plan is and what it is not.

To provide the same coverage that we provide Federal employees would not cost the \$400 billion in this plan. It would cost \$800 billion. It would cost \$800 billion in comparison to the \$400 billion in this plan to provide the prescription drug benefit we provide Federal employees.

To provide the same level of benefit to our Nation's seniors that we provide our members in the military would cost \$1.2 trillion, three times as much as available in this plan.

It is critically important that we not overpromise, that we not mislead people as to what they are getting and not getting. The fact is, there are some who I have heard say this is a 70 percent subsidy. I don't know where they get that number. That is exactly the kind of language and rhetoric that is

going to lead to some very disappointed people. There is no 70 percent subsidy here. There may be for people who have extraordinarily high drug costs. I already indicated they get 90 percent of their bill paid for, over \$5,800 in drug costs a year, but that is a very small percentage of the people.

It is true that very low income people get a higher percentage paid for by Medicare. But overall, we should understand, of the \$1.6 trillion of drug costs for our Nation's seniors, this legislation is going to cover 23 percent of that, not 70 percent, as I have heard stated during the debate. Twenty-three percent will be paid for by Medicare.

If you look at this \$400 billion legislation, \$360 billion of the cost is for prescription drug payments—\$360 billion. The total drug cost of our Nation's seniors is \$1.6 trillion; \$360 billion of \$1.6 trillion is 23 percent, it is not 70 percent. So let's not be misleading people about how extensive this benefit is.

That is not to say it is not a good bill because we are limited to \$400 billion. This is about as good a bill as you can write for \$400 billion. But I hope we don't mislead anyone as to what it really provides.

One of the things we also need to think carefully about as we consider floor amendments is that 37 percent of retirees with employer drug coverage will lose it under the Finance Committee plan.

Why? Because the Congressional Budget Office says when employers look at this plan, some substantial number of them will drop their old coverage—the coverage they are providing. That will affect 37 percent of retirees who currently have employer drug coverage.

I think we need to take additional steps to provide incentives to those employers to keep on providing the drug coverage they provide. That is in our economic and financial interests, and it is in the interests of seniors to maintain stability in plans that they know and like.

Mr. President, I hope this information is useful to our colleagues. As I say, as a member of the Finance Committee and as ranking member of the Budget Committee, I support this legislation. I voted for it. I think it merits the support of our colleagues. I hope it can pass with resounding support here in the Chamber. I hope it will ultimately become law. We ought to do this with our eyes wide open. We ought to understand exactly what it provides and what its weaknesses are. We ought to communicate that clearly to the American people. We ought not to overpromise or misrepresent. Disappointed expectations can swamp this boat.

I am hopeful these remarks made clear what is provided and what is not and those places where we have an opportunity to improve this legislation. I think it is in all of our interests to commit our best efforts to do that over the coming days. I yield the floor.

I suggest the absence of a quorum and ask unanimous consent that the time of the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUNNING. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. BUNNING. Mr. President, I rise in support of S. 1, the Prescription Drug and Medicare Improvement Act of 2003. Last week, the Finance Committee took a historical step by passing the Medicare bill out of the committee by a strong bipartisan vote of 16 to 5, thanks to the great leadership of Senators GRASSLEY and BAUCUS.

This is one of the most important bills we will consider this Congress. As a new member of the Finance Committee, I was proud to support it. It is a commonsense bill that strengthens and improves the Medicare Program by guaranteeing a prescription drug benefit for America's seniors. I hope the bipartisanship momentum that was created within the Finance Committee will continue during the Senate floor debate.

Talk is cheap. Congress has been talking about passing a drug bill for years. Now we have a golden opportunity and we must seize it. Our seniors have waited too long. It would be irresponsible to leave them hanging any longer. Under the budget that we passed, we have set aside \$400 billion for a Medicare prescription drug benefit. This is a real commitment by Congress to the 40 million Americans who have relied on Medicare, many of them literally all their lives.

It has been almost four decades since Medicare was created, and it is long past time for Congress to strengthen it and to help bring it into the 21st century.

In 1965, when Medicare became law, prescription drug coverage was not included in the benefit package. Back then, it did not make any sense. Prescription drugs played a much smaller role in medical care. But because of technology and advances in health care, and much research that has been done since then, these drugs now do so much more in helping to ensure the good health of America's seniors. These medicines help seniors live longer. They help them live more active and fulfilling lives.

Medicine has changed in a way no one could have predicted back in 1965. However, Congress has failed so far to strengthen Medicare and to recognize these advances and to account for the changes in health care. We now have a chance to make up for that lost ground.

If we are going to maintain a decent Medicare Program for seniors and ful-

fill our promises to them, we owe it to them to do the best we can to make sure Medicare fully recognizes their needs and the advances in modern medicine.

We have all heard of the amazing advances in prescription drugs, but for many seniors these new lifesaving drugs are unaffordable. Under the bill before us today, many more of these drugs will be within reach of all seniors. This is a good bill for them, and it is a good bill for America.

Part of this legislation deserves special mention. First, the bill gives seniors a new option when it comes to getting their health care. Now under Medicare, most seniors are enrolled in traditional fee-for-service plans. That is understandable. It is what they know and it is what they are comfortable with. About 12 percent of seniors are currently enrolled in Medicare+Choice plans. These are managed care plans like HMOs.

Under this legislation, seniors will have another new option: Preferred provider organizations, or PPOs, for their health care. Outside of Medicare, many Americans have found PPOs to be a solid alternative instead of fee for service or HMOs that some patients find to be too restrictive. Wisely, the bill includes incentives to make sure that PPOs will cover both rural and urban areas, and all seniors in these areas will be eligible to enroll.

Coming from a small, rural State such as Kentucky this is especially important to me. In many rural parts of my State, seniors do not have a choice because the economics just do not work. But the chairman of the Finance Committee wisely crafted this bill to provide incentives to ensure that seniors in rural America have choices, too. If it is good for Iowa, I think it is going to be good for Kentucky.

This bill does not require seniors to move into a PPO or an HMO for a better drug benefit. This idea has been part of other plans on Capitol Hill, and I disagree with it. Instead, under this bill seniors can receive an equal drug benefit under traditional Medicare. We give seniors the choice. It is voluntary. I know many seniors, especially our older or maybe our oldest seniors, will not want to switch out of traditional fee for service. They should not be forced to do this.

My mother-in-law is very happy with what she has, and I am sure she will not change no matter what. That is fine. After promising her she would always get the care she is now receiving, it would be wrong for us to pull the rug out from under her or anybody like her.

In order to be fair to all, this legislation says the drug benefits will be equal in both traditional Medicare and managed care plans, so seniors will not be penalized for staying with traditional Medicare Programs they know and are comfortable with.

Another positive about the bill's benefits is the fact that seniors will have

more of a choice to find a drug plan that best suits their needs. This is very similar to what Federal employees do when they choose their health care plans. For example, the benefit structure for plans can differ slightly and the formularies for the plans will likely be a little different one from another. It is this flexibility and choice for seniors which really helps make this bill a winner.

I am also pleased the legislation provides a strong benefit to seniors who have the hardest time affording drug coverage, those who have incomes below 160 percent of the poverty level.

All along I have argued that rich people such as Warren Buffett and Bill Gates do not need our help. We need to first focus on helping seniors who need it most and can afford it least. I am very pleased this bill does just that.

At 160 percent of poverty, an individual's annual income is \$14,368 for a single person, and for a couple annual income is \$19,392. Many seniors in this category and certainly those who live on less struggle every day to pay for their medicines. Some have to actually choose between food and medicine. Some skip taking doses of their medicine. These are choices that no one in the year 2003 should have to make.

For the 3 million seniors who make even less, the bill provides them with an even more generous benefit. These are our seniors for whom Congress has the largest responsibility. This bill certainly does right by them.

Finally, I am pleased the legislation provides immediate help right now to many low-income seniors. In the year 2004 they will receive \$600 a year so they can better afford their prescriptions. This is an immediate benefit for those who need help the most and will help bridge the gap until 2006 when this new drug program is fully up and running.

Congress has a golden opportunity to pass a good prescription drug bill. We absolutely cannot let it slip through our fingers. Too many seniors struggle daily to pay for their prescriptions. In the past, Presidents and Congresses have promised too much, too many times, for older Americans. It is standup time. It is time to deliver. It is time to get the job done. Our seniors deserve it. America deserves it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, I rise today in support of the Prescription Drug and Medicare Improvement Act of 2003.

I am so pleased to be on the Senate floor today for this historic event. Within the next 2 weeks, for the first



time in our Nation's history, the Senate is going to pass a real prescription drug benefit for all seniors.

This historic time does not come a moment too soon. For years, seniors all over the country have been making hard choices—choices between filling a prescription and buying food; choices between losing their homes or buying the drugs they need to stay alive and healthy.

The prospect of providing senior citizens with access to life saving prescription drugs under Medicare for the first time is truly exciting. It is truly a historic achievement of the 108th Congress.

When I talk to senior citizens around Oregon, access to prescription drugs is the issue by far that resonates most clearly among them.

The Senate special Committee on Aging held a field hearing in Oregon last August. I was privileged to chair that hearing. We were tasked the issue of adding prescription drugs to the Medicare program. The room was packed with seniors from all around the State.

When I asked them to tell me how much they spent each month on drugs, their answers were astounding. They were astronomical.

And of course, there were the seniors who were paying for their drugs. Others made the decision not to fill prescriptions or to skip doses, cut their pills in half or try cheaper remedies.

One of our star witnesses was 76-year-old Roy Dancer, a retired educator from Beaverton, OR. He testified that many of his friends in his small retirement community have out-of-pocket expenses for prescription drugs that well exceed \$5,000 per year, including one resident with no insurance whose drug costs exceeded \$8,500 per year.

Mr. Dancer was an active member of his community. One of the ways he maintained his health was by taking eight prescription drugs daily. His wife, Betty, was also being kept healthy and active by using multiple medications daily for her high blood pressure, diabetes, and arthritis.

Mr. Dancer told the committee that he had once gone to Mexico to purchase prescription drugs to save money.

That is just one small snapshot of a relatively healthy couple in a relatively affluent retirement community with relatively healthy residents.

At that field hearing, the committee also heard from an Oregon geriatrician who described the irreplaceable benefits of modern prescription drugs, and the importance of patient compliance with a prescribed drug regimen to achieving the full potential benefits of contemporary medical care.

This Aging Committee field hearing was held just 2 weeks after the Senate's failed attempt to pass a prescription drug benefit last year. And let me tell you, this failure weighed heavily on me during that hearing.

We are talking about basic access to life saving medicines—many of them

developed in this country—and in many cases these folks just could not afford to buy them.

It was a truly humbling experience to listen to the stories of these good people and know that we had not helped them.

I want to be able to go back to the seniors in Oregon this year and tell them what the U.S. Senate has finally done for them.

This year, I joined the Finance Committee, and we have had many, many meetings to discuss how to design a drug benefit this year that we can actually pass and get to the President's desk. And with this bill, I think we have accomplished that.

Every Senator comes to the floor with their views of what is the perfect. The question again becomes, Will our individual views of the perfect thwart the good? Truly, this bill represents a lot of good, and it certainly is a very good start.

When this bill is signed into law, no senior will again ever have to lose their home when they lose their health.

This bill provides substantial assistance to low income seniors, while making improvements to the Medicare program, all in a way that will ensure the financial viability of the Medicare program in the long term.

This bill doesn't give anyone a free ride. Every senior is asked to contribute something for this sweeping new benefit. However, low-income seniors, in particular, are protected from high drug costs under this legislation.

While everyone will pay something for their prescriptions, payments for low-income seniors are tied to their ability to pay. Very low-income seniors will pay very little for their prescriptions, while moderately low-income seniors will pay a little more.

Higher income seniors will pay a small premium to have access to a plan with moderate cost sharing, and, importantly, protection against catastrophic drug expenses. The peace of mine from this coverage alone is, for me, one of the most important provisions in this bill.

In addition to making prescription drug coverage available and affordable to all seniors, this bill updates the Medicare program to include new choices for seniors.

Making preferred provider organizations, available to seniors has enormous potential to improve care coordination and provision of preventive services for seniors.

Let me tell you why this is important.

Medicare beneficiaries with multiple chronic conditions are by far the most expensive group of seniors to care for. Their care is also the most complex, creating quality of life challenges for many seniors, their multiple health care providers, and their families.

Beneficiaries with 5 or more chronic conditions represent 20 percent of the Medicare population but account for 66 percent of the cost. These seniors to go

the doctor four times as often, and fill five times more prescriptions than healthier seniors.

I believe there is an enormous potential to improve care for this rapidly growing group of seniors while keeping costs down for Medicare by coordinating their health care better.

Preferred provider organizations can help do that. And while no senior in America will have to move into a PPO, they will now have the option to do so. In my mind, that is a substantial improvement to Medicare.

For the first time in a long while, this bill also addresses one of the biggest problems in Medicare—the inequity between rural and urban America. I would like to thank Chairman GRASSLEY again for his personal commitment to this issue and for his tireless efforts on behalf of rural States such as Oregon.

In addition to correcting some of the Medicare reimbursement issues that have disadvantaged people and health care providers who live and work in rural areas, this bill contains numerous protections to ensure that rural Americans have access to the same health care choices as urban Americans and at the same cost.

These improvements were critical to win my support for this bill, and they represent just a few of the improvements in this bill over last year's bill as it was debated.

Several months ago, the Senate Budget Committee calculated that a comprehensive, responsible drug benefit that the country could also afford would cost around \$400 billion. Subsequently, the Budget Committee set aside \$400 billion for the addition of a prescription drug benefit in Medicare and improvements to the program.

This bill strengthens Medicare in a substantial way. It uses the \$400 billion set aside for this purpose without running the program into the ground in the long term.

I know I am not alone in striving to update Medicare in such a way that the program will be there for our children who will want to participate in it.

Americans across the country are asking for our help. They cannot afford to wait another year while we search for the perfect solution. This bill represents years of careful research, debate, and compromise, and it is going to strengthen and improve Medicare for generations to come.

I look forward to working with every one of my colleagues over the next few weeks to improve this bill and to get it to the President's desk before the end of summer.

Mr. President, I thank you for the time.

Mr. President, I ask unanimous consent that the time spent in quorum calls during today's session be charged equally to both sides.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. SMITH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. KENNEDY. I understand there is a division in the time. How much time do we have on our side?

The PRESIDING OFFICER. Sixty-five minutes.

Mr. KENNEDY. I yield myself such time as I might consume.

The history of America is that of a people always fighting for an ever more perfect union, a nation of genuine fairness and opportunity for all, and that meets the basic needs of all Americans.

We fought to create public schools, so all children can receive an education to help them succeed, and to equip them to participate fully in our society.

We have battled for civil rights, so that no one is denied opportunity because of race, gender, religion, national origin, or disability.

We fought for a fair minimum wage, so that those who work 40 hours a week, 52 weeks a year, should never live in poverty.

We created Social Security and Medicare, so that those who work their entire lives, and contribute so much to the nation, will be cared for in their golden years.

But ours is always an unfinished republic. With each generation, and in each era, we continue to perfect our democracy and to fight for progress.

And today, one of the great challenges of our time is at long last to right an injustice that has harmed millions of our fellow Americans, the fact that Medicare today does not provide a prescription drug benefit.

Many of us in the Senate have battled for such a benefit for almost a quarter of a century. In fact, Senator Strom Thurmond and I introduced the first legislation to create a prescription drug benefit in 1977. And in more recent times, Democrats have led the charge. In 1999, Senator ROCKEFELLER and I introduced key legislation to provide prescription drug coverage in Medicare. In 2002, Democrats led the way once again in offering the Graham-Miller-Kennedy Medicare prescription drug bill.

For too many years, the prospects of enacting a Medicare prescription drug benefit were jeopardized by the insistence of many Republicans and the Bush administration to destroy Medicare by forcing seniors to leave their family doctors and join HMOs and PPOs. In fact, President Bush proposed to use a prescription drug benefit as bait, telling seniors that if they wanted prescription drug coverage, they had to leave Medicare to get it. While purporting to give seniors choices within Medicare, his plan in fact gave seniors only one option, to leave the Medicare

they love to get the prescription drugs they need. The only winner in this misguided policy would be the insurance industry, which stood to gain \$2.5 trillion dollars from the privatization of Medicare.

Democrats and senior citizens locked arms to fight this proposal. We stood up for Medicare and its promise to provide the health care needs of seniors citizens in retirement. Senior citizens across America said it's wrong to coerce them into leaving their family doctors and joining HMOs and PPOs to get the drug benefits they need and deserve.

In recent days, the voices of America's 35 million senior citizens were finally heard. Last week, a bipartisan group of Senators rejected the President's backwards priorities, and President Bush retreated from his insistence on privatizing Medicare. Instead of holding the needs of seniors hostage to an ideological agenda, Republicans' willingness to put aside ideology and work with Democrats to create a prescription drug benefit now paves the way for the largest expansion of Medicare in its 37-year history. After many years of battling for a Medicare prescription drug benefit, we now face the very real prospect that Congress can pass, and the President will sign, a bill that provides the prescription drug benefit within conventional Medicare.

In fact, if you think Medicare should be privatized, then you should oppose this bill.

This promising moment comes at a time of crisis for millions of our senior citizens. Too many elderly citizens choose between food on the table and the medicine they need. Too many elderly Americans are taking only half the drugs their doctor prescribes, or none at all, because they cannot afford them. Today, the average senior citizen has an income of around \$15,000, and prescription drug bills of \$2,300. That is the average, and many senior citizens incur drug costs in the thousands of dollars each year.

Senior citizens are faced with a deadly double whammy. Prescription drug costs are out of control, and private insurance coverage is drying up. Last year, prescription drug costs soared by a whopping 14 percent. They have shot up at double-digit rates in each of the last 5 years. Whether we are talking about employee retirement plans, Medigap coverage, or Medicare HMOs, prescription drug coverage is skyrocketing in cost, and becoming more and more out of reach for the elderly.

This chart reflects the rise in costs as compared to what our seniors are receiving in their Social Security COLA increase, going from 1998 where there was a 10 percent increase in the cost of prescription drugs but seniors were getting only 2.1 percent. In 1999, it was 19.7 percent and the increase in the cost of living was at 1.3 percent. Then we go throughout 2000, 2001, 2002, and today in 2003 it is expected to go up to 13 percent with seniors receiving a very modest 1.4 percent.

When we are talking about what is happening to the quality of life of our seniors, we are talking about these absolutely vital, indispensable medications, prescription drugs, which they need and which are costly. The fact is, so many of our seniors are on fixed incomes that with very modest increases in the cost of living they are constantly being squeezed, and this is putting the kind of pressure on them and on their lives and on their families which has caused such extraordinary pain, suffering, and anguish among the seniors; and not only among the seniors but among their families as well.

The costs are one of the dramatic aspects of the whole prescription drug issue, and we are going to make a downpayment hopefully with the acceptance of the legislation that came out of our committee. The initial McCain-Schumer legislation which now is supported unanimously from our committee will help to move generic drugs on to the market more quickly and be available to our seniors under this program.

It used to be that the only seniors with reliable, adequate, affordable coverage were the very poor on Medicaid, but even that benefit is eroding. Today, because of the State fiscal crisis created by the recession and the let-them-eat-cake attitude of the Republican party, even the poorest of the poor can no longer count on protection. States are now facing the largest budget deficits in half a century, an estimated \$26 billion this year, and \$70 billion next year.

This chart is a pretty good reflection of the situation of our seniors on the issue of affordable, reliable and quality drug coverage. Thirteen million have absolutely no coverage; 10 million have employer-sponsored coverage; 5 million are under Medicare; 2 million are under Medigap; 3 million are under Medicaid and a small amount on other public coverage.

It used to be said of this group, it was the one group listed here that had dependable, reliable, certain drug coverage for those under Medicaid, but that is no longer true. We are seeing the numbers covered under Medicaid going down every year. With the States now facing very sizable deficits, they are cutting back on the Medicaid and the coverage.

The result is States are cutting back on the prescription drug coverage for those least able to pay. Thirty-nine States expect to cut their Medicaid drug benefit this year. In my home State of Massachusetts, 80,000 senior citizens were about to lose their prescription drug coverage under the same senior Advantage Program on July 1. Emergency action by the State legislature solved the problem but only after making substantial reductions in the coverage.

Ten million of the elderly enjoy high-quality, affordable retirement coverage through a former employer, but retiree coverage is plummeting, too. In just 8

years, from 1994 to 2002, the number of firms offering retiree coverage fell by a massive 40 percent. The employer-sponsored column on this chart shows 10 million employer sponsored retirees.

We have 13 million with no coverage, 10 million with the employer sponsored, and we saw a gradual reduction for the poorest of our seniors. So let's see what is happening now. The firms offering retiree health benefits have dropped 40 percent from 1994 to 2002. In 1994, 40 percent of the firms offered retiree health benefits. Go back to 1988; it was about 85 percent; in 1994, it was 40 percent; in 2002, it was just over 20 to 22 percent. So we are seeing that availability constantly squeezed.

Medicare HMOs are also drastically cutting back. Since 1999, more than 2.5 million Medicare beneficiaries have been dropped by their Medicare HMOs. Of the HMOs that remain in the program, more than 70 percent limit drug coverage to a meager \$500 a year or less and half only pay for generic drugs.

I have another chart showing groups of seniors. We talked about the employer sponsored seniors and the pressure they are under; we talk of the pressure under the Medicaid. Let's look at those 5 million under the Medicaid HMO and see what has happened to them: 2.4 million have been dropped, and of the remaining, take a look at what has happened. The Medicare HMOs are reducing the level of drug coverage. Sure, some provide it, but 86 percent limited the coverage to less than \$1,000 in 2003; 70 percent imposed caps of less than \$500. So although they are providing, if the average expenditure of a senior is \$2,300 and HMOs are limiting it to less than \$3,500, it is an empty promise.

We have those with no coverage. We have those in the employer retirement programs who are seeing reductions; we have the HMOs seeing reduced coverage. We have seen in the Medicaid where there has been reduced coverage as well. We also see that Medigap plans that offer drug coverage are priced out of reach for most seniors, and the coverage offered by these plans is severely limited.

Thirteen million beneficiaries, as I mentioned, have no prescription drug coverage at all. Only half of all senior citizens have coverage throughout the year. It is time to mend the broken promise of Medicare. It is time to provide every senior citizen in this great country of ours with solid, reliable, comprehensive prescription drug coverage.

As we enter this debate, our great challenge is fairness for all senior citizens who need Medicare's help to afford the prescription drugs they need. The resources within this Republican budget are limited. The Republican budget provides only enough funding to cover about a quarter of the needs of America's senior citizens over the next decade. They are going to be spending \$1.8 trillion. This is \$400 million. They are spending \$1.8 trillion, and this is \$400

million, 22 percent. There will be large gaps.

It is very important to remember this is a downpayment. Those who are supporting this program are strongly committed to building on this program. It is a downpayment. We are going to come back again and again and again to make sure we are going to meet the challenges provided by this bill and out there across this country we recognize what our seniors are facing. We must ensure that the resources are available to be used equitably.

As I mentioned, this bill is a downpayment on our commitment as Democrats to provide for the needs of our senior citizens. We will do everything we can to increase the resources available to provide an ample prescription drug benefit. If we do not succeed today, we will battle the Republican budget tomorrow, next month, next year, carry this issue into the next election, if necessary, until we have in place a White House and Congress that support Medicare and give the prescription drug benefit the resources it deserves. However, we must get started.

This bill does much that is good. It provides a low-income benefit that assures 40 percent of all seniors that they can get help with drug expenses with minimum premiums and copays. It saves the average senior with average drug costs approximately \$600 a year—not as much as we should be providing but a good downpayment toward a contract with the seniors.

This next chart is for a senior with an average income of \$15,000. They average \$2,300 in prescription drugs. This is how the program works. For \$420 in premium, they will pay \$1,298 in cost sharing, and they get a benefit of \$604, not as much as we would like to have, but nonetheless that \$604 for an average income senior citizen is an important resource and assistance to them.

The next chart shows the same senior citizen with \$15,000 of income. Say they have \$10,000—we have taken the average income and the average amount of expenditure for prescription drugs, and now we have the average income of \$15,000—this senior has \$10,000 for prescription drugs. That is a lot of money, but there are certain pills, for example, dealing with treatment of cancer, that are \$68 each. These expenditures can be run up relatively easily, and they are run up by many of our seniors. This is \$10,000; they would pay in \$4,500 and they would receive \$5,462 in savings under this bill. This is a not insignificant amount of savings.

The next chart shows families with lower incomes. We are going from \$9,000 to \$12,000, to \$13,000. This reflects the current monthly drug costs, so we are talking \$2,300 a year at \$190 a month for the average. This is the way this bill treats them. The monthly costs for a senior with a \$9,000 income would be \$5, and they would save \$185. If there was a \$12,000 income, and they still had to pay the \$190, which again is the average, their monthly cost would

be \$10, and they would save \$180. If the income was \$13,500 and they spent the \$190, their monthly cost would be \$23, and they would save \$168.

So the help, the assistance for the 40 percent of our seniors at the lower end of the income is very substantial, as it should be. We have seen where, even for the average income for the senior, it still provides about \$600. For those with an average income for seniors, with higher amounts of prescription drug expenses, it provides a very important and substantial relief for them.

In addition to this—this is one of the most appealing aspects of this program—this bill offers immediate relief for seniors. We are talking about next January. Five million low-income seniors will receive a \$600 prescription drug credit card on January 1, 2004. The most they will pay for it is \$25. But for those of limited income, they will get that free, and they will have the first \$600 prior to the time the program goes into effect, which will be in 2006. This will be available to them in January 2004. All seniors can receive savings through the drug discount card. This is enormously important. If a senior doesn't use the whole \$600, they can carry that over for another year.

Help is on the way, immediately, for 5 million seniors starting in January of next year. That, I believe, is enormously important and positive news for many seniors.

While this bill does much that is good, it still has serious gaps and omissions. It will still leave many elderly suffering from severe financial strains as they try to purchase the prescription drugs they need. It doesn't provide the retiree health plans with the fair treatment they deserve to assure they can continue to meet the needs of retired workers. It could be improved by changes to ensure the coverage provided every senior citizen will be as stable and reliable as possible. During the course of this debate, Democrats and Republicans in the Senate will try to address these needs. If we are unsuccessful, we will continue to fight over the years ahead to fill in the gaps in this program.

At bottom, the issue of providing adequate prescription coverage for seniors is a question of priorities. For the administration and for too many Republicans in Congress, tax cuts for billionaires are more important than health care for senior citizens. But Senator GRASSLEY, and I see him on the floor here today, and Senator BAUCUS and the other members of the Finance Committee deserve enormous credit for the excellent job they have done, designing a benefit within a \$400 billion straitjacket imposed by the budget resolution.

I also pay tribute to the majority leader, Senator FRIST, for his strong leadership, assisting the Finance Committee, contributing to the shaping of this program which I think is commendable. It needs work but it is a very important, significant, and positive start.

Because this program covers only about a quarter of the elderly's drug expenditures, it still leaves too many elderly—those with incomes below 160 percent of poverty—with unaffordable costs. Forty percent, those with incomes below 160 percent of poverty, will have comprehensive, affordable coverage through this program or through Medicaid. This is a tremendous achievement. But others, particularly the middle class with moderate incomes and high drug expenses, still face high drug costs. The benefits under this bill—a \$275 deductible, 50 percent cost-sharing, an out-of-pocket limit of \$3,700 with continued copayment obligations after the limit is reached, are far less generous than those enjoyed by most younger Americans, even though the elderly's need for prescription drugs is much greater.

We have talked about what they call the doughnut hole, where there is very comprehensive coverage for those at the lower end and very substantial help for those at the higher end, and less help and assistance for those in the middle. That will be one of the issues which we will have a chance to address here on the floor, to try to see if we can't provide some additional help to those who will not be benefitted as extensively as those other two groups. That will be in the form of amendments that will be introduced and hopefully supported.

Also, I mentioned the serious issues that work because of the interaction of this program in terms of retiree benefits that can potentially threaten retirees, and is an issue that must and should be addressed. I am hopeful it will be before final passage.

A final area where this bill could benefit from improvements is in the rules and regulations established for the private insurance plans that are the vehicle for delivering prescription drug benefits to senior citizens and the disabled, and for the fallback plans that will deliver the benefit when there are not two insurance plans meeting Government standards in each region of the country. The sponsors of this bill have done much to assure that individuals who enroll in private plans will pay a reasonable premium, and that there will always be coverage available in every area of the country. But more can be done and should be done to assure that premiums are reliable and affordable everywhere and that senior citizens do not have to change plans frequently because of instability in the market.

Many Democrats were concerned that last year's Republican bill could prove unworkable because private insurance plans might not be willing to provide the drug benefit. The concern was especially strong in rural areas, where HMOs and PPOs have been unwilling or unable to provide services. Under the compromise plan, there will be a government drug plan available in any place where there are not at least two private drug plans meeting Medi-

care standards available. To increase stability of choices for senior citizens, private drug plans must remain available in any region they choose to enter for at least 2 years. Thus, the bill guarantees that every senior citizen, no matter where they live, will be able to receive the benefits provided in the bill.

The Republican bill last year relied solely on competition to keep drug plan premiums reasonable for senior citizens, leaving senior citizens vulnerable to exorbitant charges and profiteering if competition was ineffective. This year's bill establishes tight regulatory criteria to assure that plan premiums are fair. It uses the same rules that govern the Federal Employee Health Benefits program.

Specifically, the bill states that a plan cannot be approved to participate in the drug program unless its premiums are "reasonably and equitably reflect the cost of benefits" provided under the plan. In the FEHBP program this requirement has been interpreted to allow health plans a maximum markup of one percent over costs.

Democrats have been concerned that private drug-only plans might deny beneficiaries access to off-formulary drugs in order to reduce costs and maximize profits. Last year's Republican bill contained no independent appeal rights and did not require that beneficiaries receive off-formulary drugs at the preferred drug rate even if an internal appeal were successful. The compromise program requires the plans to cover at least two drugs in each therapeutic class, establishes a strong independent appeal process, and provides that off-formulary drugs can be obtained at the preferred drug rate if an appeal is successful.

This week the Senate has an opportunity to make the bill better. But we must also guard against it becoming worse. This bill provides fair treatment and the opportunity for new choices for senior citizens who want to stay in Medicare as well as for those who might consider a private insurance alternative.

The President's plan, by contrast, sought to stack the deck against Medicare—and against senior citizens. Instead of the trustee of the Medicare program, his plan would have made the Government little more than a shill for HMOs and the insurance industry. Seniors would have been poorer, their medical options would have been constrained, their ability to choose their own doctors would have been compromised, and all so that wealthy HMOs and insurance companies can become even wealthier.

If all senior citizens can be forced out of Medicare and into HMO and private insurance, the revenues of the insurance industry will increase by more than \$2.5 trillion over the next decade. Same on the insurance industry for supporting this plan, and shame on the administration for putting the interests of wealthy and powerful political

supporters above the interests of the senior citizens who have built this great country.

The bill before the Senate says no to this outrageous scheme. But I anticipate that amendments will be offered during the course of this debate to tilt the scales once again against senior citizens and for private insurers. It is unlikely that any Member of the Senate will publicly demand, as the President did, that senior citizens give up their choice of doctors in order to get prescription drugs. But there are more subtle ways of unraveling Medicare. Amendments may be offered to uncouple Federal payments to private insurers, so that they have an open tap to the Federal treasury, even if their services cost more than those same services provided by Medicare. We need help for senior citizens, not corporate welfare for insurance companies that seek to undermine Medicare.

There are other ideas that could destroy our bipartisan compromise. The President says that he has embraced the bipartisan Senate compromise. But some are considering implementing a vast experiment on senior citizens all over this country. This experiment—called "premium support"—is yet another attempt to force senior citizens into HMOs and other private insurance plans. It is more subtle but just as unacceptable as the President's original proposal. It could dramatically raise Medicare premiums and victimize the oldest and sickest of the Medicare population. It is a poison pill that could kill the prospects for reform and destroy all the progress that has been made in the Senate.

I am also gravely concerned by other proposals that would establish, for the first time, a means test for Medicare benefits.

One of the reasons that Medicare is such a popular and successful program is that all individuals, rich and poor alike, contribute, and all benefit. Senior citizens want Medicare, not welfare. And tying catastrophic benefits to a person's income is the camel's nose under the tent that could lead to the dismantling of Medicare and its replacement with welfare.

As this debate progresses, there will be a vast array of facts and figures discussed in this chamber. Many of the issues will be discussed in language that will seem technical and arcane to the average American. All of us must strive to remember why this debate is important and what it is really about.

The typical Medicare enrollee is a seventy-five year old widow, living alone. Her total income is just \$11,300 a year. She has at least one chronic condition and suffers from arthritis. In her younger years, she and her husband worked hard. They raised a family. They stood by this country through economic hard times, the Second World War, the Korean War, and the Cold War. They sacrificed to protect and build a better country—not just for their children but for all of us. Now it

is time for us to fulfill our promise to her. It is time to assure her the affordable health care she deserves. It is time to pass a prescription drug benefit under Medicare.

I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The bill, S. 1.

Mr. DODD. I thank the Presiding Officer.

Mr. President, yesterday we began what can truly be expected to be an historic effort to transform the Medicare Program in this country, an effort, if it is successful in these coming days, that would provide for the most sweeping changes to that program since its inception in 1965.

We began debate this week on the need for coverage of prescription medicines under the Federal Medicare Program. While it is a debate that is sure to be spirited in the coming days, it is my hope the debate will, in the end, result in a significant move forward that will strengthen the Medicare Program for its 41 million beneficiaries and for the millions of future beneficiaries who will depend on this critically important program for their health and their well-being.

Over the past month, I have had the opportunity to convene a series of forums on senior health care in my home State of Connecticut in an attempt to frame the scope of this debate. At these forums, I heard from many constituents on many matters regarding their health care, but the present lack of coverage for prescription drugs under the Medicare Program was far and away—without even a close second—the most important question that was raised to me by literally dozens and dozens of seniors in my State.

I would guess in similar forums being held in other States around the country by our colleagues they have encountered virtually the same reaction as did I with my seniors in Connecticut: When are we going to get a prescription drug benefit? When are we going to get it under Medicare? And will it be meaningful enough to make a difference in our lives? Over and over and over again, in all parts of my State, this was the call that I received from my constituents.

At these forums, I heard from seniors who literally could not afford to fill prescriptions called for by their doctors. I heard from elderly Medicare beneficiaries forced to choose between purchasing groceries or filling their

drug prescriptions. I heard from seniors who were forced to skip dosages of their medicines in an attempt to stretch their limited supplies of needed medicines. And I heard from Medicare beneficiaries requiring more than 10 prescribed medicines a day unable to afford to fill even half of those needed prescriptions.

Clearly, what I heard from hundreds of Connecticut's more than 500,000 Medicare beneficiaries—in a State, I might add, that has 3½ million people—is their grave concern over the present lack of a prescription drug benefit under the Medicare Program.

Our goal over the next 2 weeks is very clear: to ensure that all Medicare beneficiaries have access to their needed prescribed medicines. To achieve anything less in this debate would be an abdication of our responsibility to ensure that Federal programs correspond with the times in which we live.

The simple fact is that pharmaceuticals have and will continue to better the lives of millions of Americans. When the Medicare Program was first enacted in 1965, few could even begin to imagine the great strides we have realized in health care as a result of the development and widespread dissemination of pharmaceutical medicines. However, the present lack of a prescription drug benefit under the Medicare Program fails to reflect these great gains that have been made, leaving more than half of all Medicare beneficiaries without any coverage for their needed medicines. This is unacceptable, and it must be remedied.

For this reason, I am heartened that it appears that today, for the very first time—for the very first time since we began discussion of this subject matter—we are on the cusp of passing in the Senate comprehensive Medicare reforms that will, at long last, add a prescription drug benefit to the Medicare Program.

I am particularly pleased the measure reported by the Senate Finance Committee last week, and that is before us this afternoon, represents a very significant departure from previous plans supported by the administration that would have required Medicare beneficiaries to leave the traditional fee-for-service Medicare Program in order to receive coverage for their prescribed medicines. Such a move would have been unconscionable, as 89 percent of all Medicare beneficiaries today are in the traditional program.

To force those beneficiaries to have to leave their present system of coverage, and most likely the doctor they have come to know and trust, would not only create great disruption, but it would also, for the first time since the program's inception, create a tiered benefit system under Medicare that would more greatly reward those who choose to join a private preferred provider organization or health maintenance organization over those who

wanted to stay in the traditional Medicare Program.

That is what the administration was originally advocating. That is what many, unfortunately, in the other body, the House of Representatives, are still pursuing and still advocating. So I hope, as a result of the change we have seen in the last week, this breakthrough will make a huge difference in the lives of Medicare beneficiaries who want to retain the ability to stay under the traditional Medicare Program if they so choose.

And so while I am pleased the bill before us soundly rejects a tiered benefit system—and I commend the distinguished Senator from Iowa, the chairman of the committee, and the distinguished Senator from Montana, for rejecting the idea of a tiered benefit system, I am deeply concerned that the plan presently taking shape, as I mentioned, in the other body, the House, appears to rely on such a flawed plan. And until we have resolved the matters between these two bodies, this fundamental difference will still be out there and need to be addressed.

President Bush, just last week, visited my home State of Connecticut and called on Congress to pass a prescription drug benefit before July 4th. For my part, I call on the President not to sign any Medicare reform measure that would force seniors to join private plans in order to receive a more generous prescription drug benefit. Such a measure would signal an end to the Medicare Program as we know it and should be rejected out of hand. In fact, I would hope the President would say, categorically, that while he wants Congress to pass a bill before July 4th—he must say, with equal strength, that he will not sign a bill that denies people under traditional Medicare the opportunity to have an adequate prescription drug benefit or forces them to have to make a choice between staying in traditional Medicare and getting no prescription drug benefit or going to a private plan where they can get that prescription drug benefit but having to give up traditional Medicare as the price. The President needs to state that he will reject any proposal on his desk that incorporates that idea.

The bill before us, S. 1, the Prescription Drug and Medicare Improvement Act of 2003, represents a strong step forward on this issue. However, no bill is perfect, and S. 1 clearly leaves much room for improvement. In the coming weeks, I plan to work with my colleagues to specifically address concerns over the present bill's lack of adequate provisions to ensure that those companies presently providing their retirees prescription drug coverage receive adequate Federal support for their laudable efforts. Any measure that we enact should be crafted so as to support, not supplant, the valuable efforts of employers already providing prescription drug coverage for their retirees.

Additionally, I remain concerned that the gap in coverage in the present

bill—the so-called donut hole—will leave many Medicare beneficiaries facing high prescription drug costs with no assistance at the very time when it may be needed most. These may be the people who are the most sick, under the most dire medical circumstances. And if they were to reach that threshold of approximately \$4,500 in prescription drug costs, they will have to maintain paying the premiums without receiving any benefit until they reach the upper limit of the gap, approximately \$5,800 in drug costs. This gap in coverage could provide a huge hardship on literally hundreds of thousands of Medicare beneficiaries. I hope we are going to be able to close the so-called donut hole, especially for those in the lower income category who can least afford any gap in their coverage.

I am also concerned that S. 1 fails to adequately protect Medicare beneficiaries from the very understandable confusion and uncertainty that may surround these beneficiaries just as they begin to navigate the intricacies of a brand new program. Specifically, I am worried that, if enacted, the underlying bill would require Medicare beneficiaries choosing a prescription drug plan to stay with that plan for a minimum of 1 year. With the enactment of such broad and sweeping changes to Medicare as S. 1 would provide, I am fearful that many Medicare beneficiaries will face great uncertainty trying to find the best plan to meet their particular medical needs.

I believe we can greatly relieve this uncertainty by allowing those initially choosing prescription drug plans for the first time the opportunity to move from one plan to another as they determine what each plan will specifically offer and which plan best fits their own needs. We ought to give our senior citizens that opportunity. All Medicare beneficiaries are not the same merely because they have reached the same age. They are under very different circumstances with very different medical needs. We ought to show them the dignity and respect they deserve as an older generation to give them the ability to choose the plan that serves their needs best and not force them to have to make decisions that may do them great harm.

In the coming weeks I will offer several amendments to the legislation that will address these very specific issues and possibly other ones as well.

On July 30, 1965, President Lyndon Baines Johnson traveled to the Truman Library in Independence, MO, to sign the Medicare Program into law. In attendance on that day was the former President of the United States, Harry S. Truman, 81 years of age at the time. On that day, President Johnson remarked:

No longer will older Americans be denied the healing miracle of modern medicine. No longer will illness crush and destroy the savings that they so carefully put away over a lifetime so that they might enjoy dignity in their latter years.

Almost 38 years later, we face a similar struggle of ensuring seniors access to modern medicine, this time in the form of prescribed medicines.

So it is with a great sense of hope that I join the debate this afternoon. Medicare's nearly 41 million beneficiaries clearly need assistance in affording their needed medicines. Our effort over the next 2 weeks will greatly determine to what extent we assist in that effort.

Clearly, a great opportunity is presently before us. I look forward to working with all of my colleagues on both sides of the aisle, Republicans and Democrats, to ensure that we seize this opportunity. It may not come again. While the bill before us may be less than perfect and the resources we are limited to may not be as adequate as we would like, we have an opportunity over the next couple of weeks to take the legislation presented to us by the Finance Committee, to work on that legislation and hopefully improve it in several of the areas I have mentioned.

What greater gift could we give, 38 years after Medicare's creation, to retirees and future generations of retirees than to grant them access to this wave of new medicines and prescription drugs, that cannot only extend life but can substantially improve the quality of life for people, which will give them the opportunity to enjoy years of retirement with their children and grandchildren and friends. Surely these wonderful miracle drugs ought not to become the exclusive domain of only those who can afford to buy them.

Mr. President, I do not want to have to face constituents in my State ever again who will report that they had to make a choice between putting food in their mouths or medicines that they need; that they had to choose between the medicines they need because they can't afford all of them that the doctors have prescribed, or that they reject altogether the medicines that they have been prescribed because they can't afford them. We can't do everything for everyone, but it seems to me providing a meaningful prescription drug benefit that will really serve the underprivileged in our society, particularly those age 65 and above, is something this Congress ought not to fail to do in its responsibilities.

I look forward to the debate. I look forward, more than anything else, to voting for a package in the end that will do that which most of us would like to see accomplished and seeing to it that the elderly will receive the full promise given to them back in 1965 that a Medicare Program is going to be there for them, and this time we are going to include in the program coverage for needed prescribed medicines.

I commend those who have moved so diligently and worked so hard to bring us to this very optimistic moment. I am hopeful in the coming days we can complete the job by adding some improvements here and presenting a bill to the American public which they will applaud if we correctly do our job.

I suggest the absence of a quorum and ask unanimous consent that time thereunder be equally divided.

The PRESIDING OFFICER (Mrs. DOLE). That has been provided.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. LINCOLN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CHILD CARE TAX CREDIT

Mrs. LINCOLN. Madam President, I am rising today to encourage my colleagues. I have gotten an understanding that the Republican leadership will be meeting in the morning to talk about the conference with the House on the opportunity we have to provide 12 million children in this country some help through the tax relief package that was passed in the Senate.

I also thank my Senate colleagues for, in a resounding way, reaching out to this country and to those 12 million children, as well as their working families, and saying we do believe it is important that the tax relief package we provide be balanced both in its fiscal responsibility and in its ability to reach out to all working families in this Nation and give them the relief so that they, too, will have the opportunity to be able to participate in stimulating the economy of the country. After all, that is what we are really looking for, stimulating the economy and making sure we are strengthening our Nation. I think there is no better place to go than to the working American families.

So I encourage my colleagues today, as I come to the floor not to ask immediately but to request of the leadership, to really thoughtfully put together what it is we need to do in order to expedite moving to conference on this issue. I also plead with the President that his efforts and opportunities will certainly weigh in with the Members of the House, encouraging them to move forward. They have already voted in the House in a motion to instruct the conferees to the Senate position. This is something we can do, and do it quickly and in a very fiscally responsible manner by paying for it. But we can do something now that is going to help working families in the next several months.

It is critical, as we move forward with the previous tax package passed, to provide relief to all Americans across this great land by July 1, and that we, too, recognize not only those precious 12 million children who are out there, but the working families they are a part of, recognizing that these families are preparing in the late summer to get their children ready to go back to school. They certainly could use those resources in multitudes of ways—bringing their families together, preparing their children for the school year. We desperately want to make sure that happens.

I encourage our Republican leadership to come together to visit on moving forward in the conference, recognizing that we have a tremendous responsibility not only to the economy of this Nation, particularly in strengthening our country, but, more importantly, to the future of the country.

When you look at those who will be the future leaders of the workforce, the individuals who will be there to continue the great legacy of this land—the children of our country—we must give those working families the opportunity to take advantage of the same kind of tax relief that other families are going to be getting; they, too, have to take that opportunity to reinvest in this great country and, more importantly, in their families and their children.

So I encourage my colleagues, as well as the leadership on the other side, to make sure that in the morning they will meet in a wholehearted fashion looking for the opportunity we have before us to be fair and balanced for the multitudes of children and working families across this country.

I, too, encourage the President to weigh in on this issue. He has a tremendous opportunity to make a difference, and I hope he will choose to do so.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Madam President, I am very concerned because what I see coming at us right now is a very fast train. And that train is a giant giveaway entitlement program. We might be in a position to do something about now, but if we wait, we will not be able to do anything about it.

Medicare already accounts for roughly 12 percent of the Federal spending and will only grow as more and more baby boomers retire. When Medicare was proposed in 1965—and I am one of the few people around old enough to remember that—I can recall the estimate of Medicare Part A that would cost \$2.9 billion in 1970. This was 1965. The actual expenditures in 1970 were \$5.3 billion, roughly twice what they were estimating back in 1965. The estimate for 1980 was \$5.5 billion. This is Medicare now. The actual expenditures that year totaled \$25.6 billion. That is five times the estimated amount.

The predicted expenditures for 1990 were \$9.1 billion, but the actual expenses totaled \$67 billion, nearly seven times the estimated amount. Currently, 76 percent of the Medicare beneficiaries already have some form of drug coverage.

We have talked about the fact that something that is not broken does not need to be fixed. When we start looking

at establishing an entitlement program today and go by the Medicare model, this is something that none of our kids and grandkids are going to be able to afford.

So if we keep in mind that 67 percent of the Medicare beneficiaries already have some form of drug coverage—much of it is better than the proposal on the table now—many of these individuals could lose this coverage if a prescription drug benefit is added to Medicare.

CBO estimates that 37 percent of the beneficiaries with employer-based prescription drug coverage would lose that coverage. This accounts for 11 percent of the total Medicare population.

Many pharmaceutical companies already offer programs that give low-income seniors their prescription drugs for free or for reduced prices. If this bill is passes in this form, the companies may eliminate these programs, forcing more people into the Medicare rolls.

One might say, well, we can legislate this and not allow them to do that. That solution is not going to work. That would be an attempt to micro-manage the private sector, and that would not work. I do not think there is any Member of this Senate who, if they owned a company that was giving away free programs, then the Government came along and offered something, that they would continue that practice. That is exactly what would happen.

The need to get this legislation to the floor and passed by the end of June, along with the need for bipartisan support, has led to a series of compromises that have resulted in a hodgepodge of a bill. There are elements of this bill that are not only bad policy but will have a detrimental effect on the system as a whole; for instance, the extension of instant Medicaid benefits to illegal aliens, placing an additional burden on Medicaid; loss of employer-based benefits, thus expanding an already large entitlement program.

According to an editorial in the Wall Street Journal yesterday, Monday, seniors already own 60 percent of all the wealth of the country and their worth is only increasing. We cannot continue to finance entitlement programs on the backs of current American workers, which is what this bill does.

The bill is not means tested. We are giving multimillionaires, even billionaires, the same benefit offered to seniors on fixed incomes. In other words, the Bill Gateses and Warren Buffetts would get the same benefit as a retired schoolteacher.

There is a need for Medicare reform to ensure the solvency and stability of the program. However, the current version of this bill does not meet those needs.

I look forward to working with my colleagues to improve this legislation through amendments designed to encourage employers to retain the drug coverage they currently offer, to allow seniors to take advantage of private

plans and better options, and to keep the costs low.

I will read a little bit of the editorial I read on the plane coming back to Washington. It says:

The bill that passed the Senate Finance Committee last week would cover just 50 percent of the drug expenses between \$276 and \$4,500 annually, then zero up to \$5,800, and 90 percent thereafter. That's nowhere near as good as many seniors currently have with employer-sponsored coverage. Most employers will drop or scale back that coverage once they realize that the feds are willing to pick up part of their tab.

That is human nature. That is what we are talking about.

The Congressional Budget Office estimates that 37 percent of those with employer coverage could lose it.

I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. We want something to happen. We know there are some plans out there that have been offered that take into consideration that we do not want one Government program that is going to end up being an entitlement program. If it ends up the way it is today, I am going to serve notice right now that after every effort we can make to pass amendments, if they do not work and we end up with what we have today, I am going to be opposing this plan, and hopefully there will be several others who will do the same thing.

#### EXHIBIT 1

##### MEDICARE DRUG FOLLY

Runaway trains are hard to stop, but someone has to try and derail the bipartisan folly now moving ahead under the guise of Medicare "reform." Permit us to put a few facts on the table, in the (probably fanciful) hope that somebody in the White House still cares more about the long-run policy than the short-term politics.

Let's start with the amusing irony that the supporters of this giant new prescription drug benefit are many of the same folks who were only recently moaning that a \$350 billion tax cut would break the budget. That tax cut will at least help the economy grow. But the new Medicare entitlement is nothing more than a wealth transfer (from younger workers to retirees) estimated to cost \$400 billion over 10 years, and everyone knows even that is understated.

The real pig in the Medicare python doesn't hit until the Baby Boomers retire. Social Security and Medicare Trustee Tom Saving told us last week that the "present value" of the Senate plan—the value of the entire future obligation in today's dollars—is something like two-thirds the size of the current \$3.8 trillion in debt held by the public.

Bill Clinton's Medicare administrator, Nancy-Ann DeParle, correctly calls it the "biggest expansion of government health benefits since the Great Society." She's delighted to see it, but for the rest of us it is a recipe for tax increases as far as the eye can see.

And these estimates are before Democrats "improve" the benefit, as they are already agitating to do. That's because the dirty secret of this bipartisan lovefest is that the proposed drug benefit isn't all that great.



The bill that passed the Senate Finance Committee last week would cover just 50% of drug expenses between \$276 and \$4,500 annually, then zero up to \$5,800, and 90% thereafter.

That's nowhere near as good as many seniors currently have with employer-sponsored coverage. Most employers will drop or scale back that coverage once they realize that the feds are willing to pick up part of their tab. The Congressional Budget Office estimates that 37% of those with employer coverage could lose it.

A Goldman Sachs analyst last week called this bill the "automaker enrichment act," saying companies like Ford and GM would see a 15% reduction in their annual drug spending and a huge decrease in unfunded liabilities. So unborn taxpayers will soon have to pick up the tab for sweetheart labor deals negotiated by carmakers and their unions a generation or two ago.

Understood in these terms, a universal drug benefit is neither necessary nor morally justifiable. Some 76% of seniors already have some prescription drug coverage, as the nearby chart shows. The average Medicare beneficiary spends an affordable \$999 a year out of pocket on prescription drugs, and less than 5% have out of pocket expenses over \$4,000.

Seniors already own 60% of all the wealth in this country, and are getting richer. A report in Health Affairs estimates that by 2030 about half will have incomes of \$40,000 and about 60% will have assets of \$200,000 or more. We're all for a prosperous old age, but it is hardly a step toward social justice for comfortable retirees to be further subsidized by working taxpayers with mortgages and kids. The problem of genuinely poor seniors can be handled with a drug discount card or a means-tested subsidy.

We understand, of course, that these facts are unlikely to interfere with the political calculus driving this giant step toward Canadian health care. The Democrats want to expand the welfare state, while Republicans have convinced themselves that they'll get credit with seniors and be able to take health care off the table for 2004.

The Republicans are fooling themselves in the long run, and perhaps even about next year. Republicans can never win an entitlement bidding war. They will spend the rest of their public lives sounding like Scrooge for not expanding benefits, or raising taxes on their own voters to pay for the subsidies, or imposing price controls on drug makers that will stifle innovation. This is how parties of the right became me-too socialists in Europe.

The sheepish support for this from the likes of otherwise conservative Senators Rick Santorum and Mitch McConnell gives the game away. They're playing loyal spinners, but their heart doesn't seem to be in it. They're going along for the ride with a Republican White House that seems to have forgotten that it has an obligation to more than its own re-election.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Madam President, I would like to take this opportunity to discuss a particular interest of mine: how the "Prescription Drug and Medi-

care Improvement Act of 2003" will protect beneficiaries in rural areas.

As we worked to develop S. 1, members of the committee were especially attuned to the concerns expressed by some that private entities will be unwilling—or perhaps unable—to provide services to Medicare beneficiaries living in rural communities. That is why we included a number of safeguards to make certain that rural elderly and disabled patients have access to the Medicare improvements made in S. 1.

I cannot overstate how particularly important this is for my home state of Utah, since most of the 29 counties and 82,144 square miles in Utah are rural.

According to the 2000 Census, Utah's population density was only 27.2 persons per square mile, roughly one third of the national average of 79.6 persons per square mile.

So I am very interested in seeing to it that Medicare beneficiaries in rural areas—whether they are in Utah or for that matter in the State of New York, I want to make sure these beneficiaries get a fair shake.

There is no question that the Medicare beneficiaries who live in these rural communities—towns and small cities like Moab, St. George, Green River, Blanding, Beaver and Vernal—deserve access to the same services that are available to Medicare beneficiaries living in Salt Lake City, or for that matter, New York City.

I cannot criticize colleagues who are concerned that the new private sector-oriented delivery mechanisms we have designed in S. 1 may not be available to beneficiaries in rural areas. That being said, I want to provide assurances to my colleagues that the Committee worked hard to design a plan that would protect the elderly and disabled who reside in rural areas.

Indeed, it is not surprising that criticisms have been expressed that there could be gaps in coverage in rural areas given the experience with Medicare+Choice and Medicare HMOs.

These Medicare+Choice plans were established with the intent of providing Medicare beneficiaries throughout the country with access to both traditional Medicare and Medicare+Choice plans.

Unfortunately, it has not worked out that way. For a variety of reasons, the companies responsible for these plans found that they could not offer services in all areas.

Not surprisingly, many of the communities that were left without access to these HMOs are in rural areas.

I am particularly sensitive to this, because Utah is one of those States in which the Medicare+Choice plan operated for one year and then chose to discontinue.

This was a great disappointment to all—beneficiaries, the provider, and the Government alike.

So I, among all others, find it completely understandable that there may be a question about whether the plans will be available in rural communities.

I have a simple answer to that question. The new private drug plans created in A. 1 are completely different from the Medicare+Choice model.

We have learned from our experience with Medicare+Choice and we have worked to ensure we do not repeat past mistakes.

Let me take this opportunity to explain how the program will work.

Our legislation establishes a new Center for Medicare Choices within the Department of Health and Human Services. This new Center will be headed by an administrator who will oversee both the new drug plan and the new Medicare Advantage program.

To operate the prescription drug plan, the new administrator will create at least 10 regions throughout the country. These regions must be at least the size of a State.

If beneficiaries remain in the traditional Medicare program, they may receive pharmaceutical assistance through a new stand-alone program certified by the Government to provide coverage in that region. S. 1 requires that at least two stand-alone drug plans would be offered to Medicare beneficiaries in each region.

Now some may ask, "How does that ensure rural Medicare beneficiaries will have access to prescription drugs distributed by private companies? How is this different from the Medicare+Choice HMOs?"

The answer is this.

The Medicare+Choice program is organized by counties. In other words, Medicare+Choice plans can choose to offer coverage in one county, but not in another.

These plans may "cherry pick," or choose to operate in the more lucrative areas, ignoring the less profitable ones. For example, they can offer coverage in suburban counties where the cost of doing business might be lower or in counties where, for one reason or another, Medicare beneficiaries are healthier.

Under the new program, plans offering stand-alone prescription drug coverage will not be able to cherry pick in this way, because they must operate in all areas of a much larger region.

If a plan wants to offer coverage in Salt Lake City, it will be required to offer coverage in St. George, Moab, Beaver, Vernal, and Green River. In order to provide coverage in Salt Lake City, a plan will be required to offer coverage in every county and every community and to every Medicare beneficiary in Utah. That is true of other states and their rural problems as well. I am naturally talking about my own home State of Utah but it applies throughout the country.

We envision these regions, in many cases, encompassing more than one state, and combining rural areas and urban areas.

Medicare+Choice does not work this way. And so, we have designed the plans envisioned under S. 1 based on the lessons learned with Medicare+Choice.

Another criticism some in this body have voiced relates to the concern that prescription drugs might be available in a predominantly rural region, but with higher premiums for Medicare beneficiaries living in rural areas.

Once again, the concept of regions addresses this issue. Plans will be required to charge the same premium for an option throughout the region.

Let me add, however, that this does not ensure premiums will be identical between regions.

This important issue was raised during the Finance Committee's consideration of this legislation by my friend and colleague, Senator OLYMPIA SNOWE.

In order to address this very valid concern, our legislation gives the Secretary of Health and Human Services the discretion to make adjustments in geographic regions so there will not be a large discrepancy in Medicare prescription drug premiums across the country.

Other may wonder why we establish regions at all. Why not have a single premium throughout the country and private entities would bid to provide prescription drugs nationwide?

One reason we did choose this approach is that only a few private entities are currently able to provide nationwide coverage. Limiting competition to those few companies would neither ensure beneficiaries the best prescription drug prices nor a significant choice among coverage options.

The approach we have chosen is one that ensures beneficiaries will have access to prescription drug coverage. It provides for competition, and minimizes regional differences in beneficiary premium costs.

But some may still wonder whether private plans will choose to enter predominantly rural States or regions?

My Finance Committee colleagues and I have worked hard to ensure that plans have the appropriate incentives to participate in all 50 states.

Even so, no one can guarantee with complete certainty that private prescription drug plans will choose to operate in all of the States all of the time.

For this reason, we worked very hard to make certain there is a safety net, a "fallback" plan that would provide seniors with the coverage they need in the event only one or even no private sector plans enter a region.

If only one plan, or even if no plans, are willing to offer stand-alone prescription drug coverage within a region, the government will enter into an annual contract with an entity to provide a prescription drug fallback plan.

This fallback plan would be given a one year contract to offer the standard drug plan to all Medicare Part D beneficiaries in the region. The fallback plan will be an insurance policy provided by the federal government to ensure that Medicare beneficiaries in rural communities have prescription drug coverage available in the event

that private plans are slow to begin providing service in their area.

Some in this body argue that if the fallback option is so attractive we should make it available all the time to anyone who wants it. Indeed, these colleagues argue that this so-called "permanent fallback" should be offered to beneficiaries in addition to the private stand-alone drug plans that would be offered to those Medicare beneficiaries remaining in traditional Medicare.

While this may sound attractive at first, it is not.

Making the fallback plan a permanent option will undermine the very structure upon which we have built S. 1.

Not only would it drastically increase costs—thus pushing the bill over the \$400 billion 10-year limit—it would also be a disincentive for private plans to enter the market.

I will oppose any amendment that will make the fallback plan permanent.

First and foremost, including a permanent fallback plan creates an uneven playing field.

The government fallback is a non-risk bearing entity which means that it will operate in regions without any risk for gains or losses. The government pays the fallback plan for the administrative costs associated with delivering the drug benefit.

If we make the fallback plan permanent, we are basically requiring privately delivered drug plans, which are at least partially responsible for bearing the risk of delivering this benefit, to enter this same market and compete with these government fallback plans.

I think this is not only unfair, but it also sets up our drug plan for failure. There isn't a private health plan out there that will enter such a lopsided market where we give their competitors such a large financial advantage.

In addition, including a permanent fallback plan will add billions of dollars to the cost of this bill because we will be relying, at least partially, on an inefficient, more costly government-style delivery system to provide beneficiaries with drug coverage.

When the Senate was debating the Medicare prescription drug issue last year, this was one of the biggest criticisms against the drug benefit plan offered by our colleague from Florida, Senator GRAHAM.

The Graham drug benefit plan created a one-size-fits-all drug benefit delivered by the federal government. This is not what Medicare beneficiaries want. Beneficiaries want choice in drug coverage. They do not want to be forced into government-run plans and offered a one-size fits all benefit.

The intent of S. 1 is to introduce a new model to deliver care to Medicare beneficiaries.

We are harnessing the efficiencies and quality of a private-delivery system in order to offer Medicare beneficiaries a meaningful drug benefit. This drug benefit will include multiple

choices, but it only works when all options are expected to participate under the same rules.

In S. 1, we included the government fallback as a safety net to ensure that every senior or disabled beneficiary has access to prescription drug coverage, but it is a fallback of last resort. And that is because even the Congressional Budget Office estimates that it is a more costly, less efficient model to deliver care.

I urge my colleagues to remember these points when the Senate considers an amendment that would make the fallback plan a permanent option under the stand-alone drug plans.

Let me make one thing perfectly clear. The stand-alone benefit offered under Medicare Part D will not be the only way in which Medicare beneficiaries in rural areas can obtain prescription drug coverage.

In addition, the Medicare Advantage plans—including the current HMOs and new preferred provider organizations, called PPOs—will offer beneficiaries comprehensive, integrated coverage, including coverage for hospital services, outpatient care, and prescription drugs.

Private sector entities will bid to become one of three PPO plans in a region.

And, HMOs can continue to contract to provide all Medicare services—including drugs—for a county.

My Finance Committee colleagues and I have worked very hard to provide appropriate incentives to encourage the preferred provider organizations to participate in every region and in every State, whether they are predominantly rural or urban. However, if for some reason, PPOs decide not to bid in a specific region, the beneficiaries in these regions still will have the option to obtain prescription drug coverage through traditional Medicare and the new Medicare Part D plans that I described earlier.

The bill that we approved in committee provides options for Medicare beneficiaries in urban and rural areas to obtain prescription drugs through traditional Medicare and the new Part D prescription drug program, or through the new Medicare Advantage program with its comprehensive health care coverage plans.

Furthermore, the "Prescription Drug and Medicare Improvement Act of 2003" ensures all Medicare beneficiaries that prescription drug coverage will be available even if private entities are unable to provide the coverage in their region.

This legislation is preferable to previous bills we have considered, because it provides Medicare beneficiaries with more choices and more comprehensive coverage. It provides private entities with more incentives to cover rural communities, and it assures Medicare beneficiaries who live in those rural communities that they will have access to prescription drug coverage.

Just think of what we are doing here. We have a drug benefit that will begin

January 1, 2006, and it is a voluntary program.

We will issue a prescription drug card which will be offered to beneficiaries from January 1, 2004, through at least January 1, 2006, 6 months after the prescription drug benefit plan is implemented. The prescription drug plan will be implemented on January 1, 2004.

The drug benefit with the Medicare Part D is a Medicare Program. At least two stand-alone drug plans must be offered in each region. All Medicare beneficiaries will be able to participate. Those who remain in traditional Medicare will have a drug benefit equal to those who go into the new Medicare Advantage Program, formerly known as Medicare+Choice. Beneficiaries will be offered either standard drug coverage or drug coverage that is an actuarial equivalent to the standard drug plan. Either drug plan will be available to those remaining in traditional Medicare or those who begin the Medicare Advantage Program, this new program.

The national average of monthly premiums for the drug benefit will be \$35 per month in 2006. All drug plans will have mandatory deductibles and beneficiary out-of-pocket cost-sharing limits.

Every beneficiary will have a choice between three prescription drug plans. The Medicare Advantage Program will offer either a PPO option or an HMO option. A stand-alone drug benefit will be offered to beneficiaries remaining in traditional Medicare. A maximum of three Medicare Advantage PPO plans will be offered per region. They will compete for the opportunity and the privilege of serving the people in that particular region. Health and Human Services will certify all of these drug plans before they are offered to Medicare beneficiaries. In any event, they will be offered to all Medicare beneficiaries, seniors and disabled.

I was a member of the tripartisan group last year that put forth the tripartisan plan. Had we not done that, we wouldn't be as far along today as we are. I have to say I was proud to be a member of that tripartisan plan, along with Senators GRASSLEY, SNOWE, BREAUX, and JEFFORDS. There were five of us. We took on that assignment, and we came up with a lot of ideas that have been improved upon in this bill. This was a very important bill.

There is no easy solution in these areas. In spite of the desire of some to have simple private sector solutions, those are not in the cards with the votes we have in the Senate today or in the near future, I have to say as well.

This bill is as close as we can go towards having two completely different but nevertheless useful options: traditional Medicare for those who do not want to leave, but this new Medicare Advantage for those who really want to try something different where they may have advantageous benefits over time.

We believe the competition fostered by this bill is going to be good competi-

tion, that it should help to keep costs down. But, most importantly, we believe all seniors should have a right to prescription drug benefits, and this plan will give it to them.

We will have lots of crying and moaning and groaning about different ideas around here, some of which I might like just as much as what we have in here, but we could not get them done. So we have come together in the art of the doable to get a bill that literally gives both sides of these options a chance to be able to excel and do better for our senior citizens. That is important. That is real important. This bill is important. It is the first time in history we have done this. Frankly, a \$400 billion bill over 10 years is a very important bill that will do an awful lot of good for our seniors and for those who really are hard up in our society and for those who have to do without food or split their pills or do any number of things in order to be able to get the medications they need.

I am proud of this bill. Each one of us probably could, if we were dictators, come up with what we think might even be a better bill. But, fortunately, that isn't the way this representative republic works. We have to work within the framework of the Congress. Sometimes that is a messy, mixed up, sometimes very inefficient method of legislating, but, in the end, this country has survived because we have the greatest form of government in the history of the world. And this process, as sloppy as it might be from time to time is bringing about a bill that will do an awful lot of good for an awful lot of seniors in our society at a time when they need it the most.

I just hope we can reduce the number of amendments and get this bill passed as soon as we can, get together with the House in a conference, and, of course, come up with a final package that, hopefully, will even be improved that will take us throughout this next century in a way that will protect our seniors and those who have suffered for want of pharmaceutical prescription drugs.

I yield the floor.

The PRESIDING OFFICER (Mr. AL-EXANDER). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. MCCAIN pertaining to the submission of S. Res. 173 are printed in today's RECORD under "Statements on Submitted Resolutions.")

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCAIN. Mr. President, I note the presence of the Senator from Kentucky. I ask unanimous consent to engage him in a 2- or 3-minute dialog.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF AUNG SAN SUU KYI

Mr. MCCAIN. Mr. President, I am pleased to note that, thanks to the efforts of millions of people all over the world, ASEAN, in a radical departure from their previous practice, has called for the release of Aung San Suu Kyi. I thank the Senator for his sponsorship of the legislation that I think may have had some beneficial effect. We obviously don't know all the factors that went into it, except to note also that people all over the world have been aroused on behalf of this great and truly good person. I thank the Senator from Kentucky for his efforts on her behalf.

Mr. MCCONNELL. I thank the Senator from Arizona. I think he is the only person I know who has actually been in the presence of Suu Kyi. I am sure the Senator shares my view that the mere act of letting her out is a long way from where the two of us hope they will end up.

What the junta needs to do is a lot more than simply end the house arrest, but give her and her duly elected party an opportunity to assume the power that they won 13 years ago in an honest election. So it is a step in the right direction. I am sure my friend from Arizona agrees that we have a long way to go.

Mr. MCCAIN. I thank the Senator.

Mr. MCCONNELL. Mr. President, I was just going to wrap up. I see my friend from Alaska here. How long does the Senator expect to speak?

Mr. STEVENS. I really could not say.

Mr. MCCONNELL. May I do the wrap-up and then allow the Senator from Alaska to make his comments? The wrap-up is rather short, I believe.

Mr. STEVENS. May I inquire, did the Senator from Kentucky just cosponsor that amendment?

Mr. MCCONNELL. No. Mr. President, I did not cosponsor the amendment. We were just talking about Burma. Senator MCCAIN and I were talking about Burma. The expression on the face of the Senator from Alaska was one of alarm. I want to reassure him that I certainly did not cosponsor the resolution.

#### MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### LET'S NOT FORGET CAMBODIA

Mr. MCCONNELL. Mr. President, Secretary of State Colin Powell is in Phnom Penh, Cambodia, for an annual ASEAN meeting. There are many issues he needs to pursue with ASEAN members, including, most urgently, support for the struggle for freedom in Burma.

Also pressing is the fate of democracy in Cambodia. Secretary Powell

must be clear to all Cambodian democrats that the United States stands firmly and publicly with them in our common cause of democracy and the rule of law. Secretary Powell should make it a point to meet with the democrats during his short stay in Phnom Penh.

It is in America's national interest, and that of Cambodia, that new leadership—firmly committed to transparency, accountability and justice—is elected in upcoming parliamentary elections next month.

The ruling Cambodian People's Party, CPP, and its earlier manifestations have had an opportunity—nearly a quarter of a century—to develop that country. Their records is unimpressive, at best. Crimes are committed with impunity, corruption is endemic and extends to the highest office, and lawlessness provides a breeding ground for terrorism and other criminal activities.

Under CPP Prime Minister Hun Sen's leadership, opposition rallies have been attacked by grenade-throwing terrorists, a coalition government disintegrated in a coup d'etat, and government-paid gangsters, the Pagoda Boys, caused \$50 million worth of damage in anti-Thai riots that were fueled by Hun Sen's reckless nationalistic comments.

Secretary Powell should temper his comments praising the Cambodian Government for cracking down on terrorism. The reason terrorists are on Cambodian soil is because of the very lawlessness perpetuated by the CPP. Hun Sen has swatted a few flies recently, but is directly responsible for leaving the screen door wide open. A more serious response to terrorism in the region is freedom and the rule of law for the Cambodian people.

While in Phnom Penh, Secretary Powell must push for free and fair elections in July. Opposition parties must not be denied access to media or the ability to conduct rallies, demonstrations, and other forms of free expression. Secretary Powell must make clear to Hun Sen that a single, additional political killing is one too many, and that the election will be judged by international standards—which, contrary to the Prime Minister's thinking, is not reserved only for sports competition.

Let me close by saying that it has come to my attention that the ASEAN meeting is taking place at the Intercontinental Hotel, which is owned by Theng Bunma—a suspected Cambodian drug king pin and self-described financier of the 1997 coup. This epitomizes all that is wrong in Cambodia today.

Mr. President, I ask that a letter from Cambodian opposition leader Sam Rainsy to Secretary Powell calling for Suu Kyi's immediate release be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KINGDOM OF CAMBODIA,  
June 13, 2002.

COLIN L. POWELL,  
Secretary of State,  
U.S. Department of State, Washington, DC.  
c/o HE MR. CHARLES RAY,  
U.S. Ambassador,  
U.S. Embassy, Phnom-Penh, Cambodia.

DEAR SECRETARY POWELL: I would like to take this opportunity to express my appreciation for your statement calling for the immediate release of Aung San Suu Kyi and increased pressure on Burma's military junta. The struggle led by Suu Kyi is an inspiration to all those who live in fear under repressive regimes, and to those who fight everyday for freedom and democracy. I proudly join you in the call for the release of Aung San Suu Kyi and hope that you will use the opportunity of your visit to Cambodia for the ASEAN Regional Forum to press for an end to the suffering of the Burmese people.

The fate of Aung San Suu Kyi and Burma's democracy is indelibly linked to the future success of the ASEAN region. The transition from communism and military dictatorship to democracy would bring untold political, economic and cultural benefits to one of the most diverse and potentially dynamic regions in the world. In this context your statement that those who oppress democracy must not be allowed to prevail has particular resonance.

In Cambodia, we are struggling to end endemic poverty, reduce appalling illiteracy rates and to provide basic nutritional needs to our children. This struggle is made all the more difficult by a government more committed to consolidating its own power than to the welfare of its people. While offering a facade of progress and stability to donors and the international community, the government has used fear and violence to support a lucrative patronage system, exploit our natural resources and suppress opposition voices. It was just today that the latest victim, a garment worker protesting low wages and poor factory conditions, was shot and killed by government riot police as they cracked down on a peaceful demonstration.

Unlike in Burma, the Cambodian people will have the opportunity to go to the polls in July to change their leadership. They must be allowed to do so in an environment free from fear and intimidation. But already we have seen that the current government is willing to sue the tools of fear and violence to suppress the Cambodian people's desire for freedom and democracy. This year's electoral process is already flawed by biased elections commission, restrictions on voter registration, restrictive media access and ongoing intimidation of opposition activists. The potential for democracy in Cambodia is being thwarted by this government and it must realize that, "its actions will not be allowed to stand."

As you prepare to participate in the ASEAN Regional Forum in Phnom Penh next week, I trust that you will continue to provide a strong and leading voice for the release of Aung San Suu Kyi. At the same time, I ask that you use the same strong voice to advocate for credible elections in Cambodia—elections that reflect the true will of the Cambodian people.

Sincerely,

SAM RAINSY,  
Leader of Parliamentary Opposition,  
Kingdom of Cambodia.

#### UNITED SERVICES ORGANIZATION

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to the United Services Organization for

two vivid recent examples of the legendary support and assistance that it provides for the families of members of our Armed Forces when their loved ones are serving away from home.

The USO is rightly renowned for the joy, the comfort, and the happiness it has brought to our troops and their families over the years. It is truly an American treasure, as it has shown once again in its extraordinary support for two Massachusetts families during the recent war in Iraq.

Under the leadership of executive director Alice Harkins, the USO of New England came to the aid of Sergeant Vanessa Turner who became critically ill in Iraq while serving in Operation Enduring Freedom. Upon the onset of her illness, SGT Turner was flown back to Germany and to the community she left. Sergeant Turner's 15-year-old daughter Brittany was left in Germany while her mother was deployed to Iraq. Brittany remained strong, finishing the school year while visiting her mother in the hospital in Landstuhl, Germany. SGT Turner's family in Roxbury, MA, was desperate to fly to her bedside and to comfort Brittany. The USO of New England came to the rescue, arranging for SGT Turner's mother, sister, and brother to fly to Landstuhl, Germany. According to Alice Harkins, this was "an easy request. Their children are our responsibility; if the service members know that the community is taking care of their children, then they can relax."

In the second case, the Armours family in Athol, MA, was devastated to learn that Specialist Jamvis Armours had been critically wounded in Iraq and had been flown to the Washington Hospital Center in Washington, DC. Problems arose in getting SP Armours' wife and children to the hospital. Again, the USO came to the rescue. They assisted the family financially and emotionally, and Alice Harkins actually drove from Boston toward Athol to see them and to ensure that they had all they needed for the trip. Going the extra mile is what makes the USO so widely admired throughout our country and by all the members of our Armed Forces wherever they serve.

I commend the USO of New England in all it does so well, and for demonstrating in these two cases that its helping hand is always there when its help is needed most.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, since its inception, the United Service Organization what we all know as the USO has worked to bring a piece of home to the members of our armed forces wherever they may find themselves. From Bob Hope's legendary tours to the latest cyber-canteens that allow service members to stay in contact with family and friends via email, the USO works tirelessly to provide simple pleasures to those who venture into harm's way.

As the population of the armed forces has changed, so too have the services offered by the USO. Today, this great organization provides childcare services for kids whose parents are deployed, travel assistance for the family of wounded service members, prepaid phone cards, the ever-popular celebrity tours, and countless other services for our troops and their families.

Recently, my staff and the staff of Senator KENNEDY had very close contact with the personnel and services of the USO through its New England offices in Boston. Several weeks ago, our staff was contacted by the family of an American soldier who had become gravely ill in Iraq. She had been evacuated to the American hospital at Landstuhl, Germany, where doctors determined she was near death. She was so ill that her doctors ordered her medically retired, making her daughter eligible for retirement benefits. But that reclassification also meant that the Army could no longer pay for her family's travel to Germany to be at her bedside. That decision, made for all the right reasons, had the unintentional and regrettable consequence of bringing only more grief to a family already grappling with the prospect of losing their loved one.

And that is when USO-New England and its director, Alice Harkins, got involved. When the situation was explained to her, Alice replied simply, "We're going to do this. This is why we exist." And, as promised, the USO-New England found the money and paid for the soldier's family to travel to Germany.

Alice Harkins and her capable staff at USO-New England represent the best of us. Through their vigorous efforts, their determination, and their simple desire to help those who serve in our military, they inspire us all. They are people who recognize what's right, and who show their love of country and their love for those who serve with deeds as well as words.

The USO receives no financial support from the U.S. Government. Its success is due to the countless volunteers who contribute time and energy for the men and women of the Armed Forces in times of war and peace and the generosity of sponsors who make its operation possible.

I know I express the sentiment of the Senate and current and former members of the Armed Forces when I say thank you, USO, for your efforts to bring a slice of home to those on the frontlines and for remembering their families while they are away. We should all aspire to make such a contribution. Fortunately, the people of the USO, people like Alice Harkins, do. And we can all be grateful. ●

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY

and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Germantown, MD. A 16-year-old Arab-American girl was physically attacked by a group of unknown young adults on the Campus of Montgomery College on September 14, 2001. This was the first of three hate crimes targeting the student and her family. On September 21, her family was out driving when unknown assailants threw a firecracker in front of their car. On September 28, vandals smashed the rear window of the family's minivan while it was parked in front of their home.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### RALLY AGAINST HATE

Mrs. FEINSTEIN. Mr. President, I wish to acknowledge the efforts of my colleagues and many others participating in the Rally Against Hate on Capitol Hill today.

The rally has been organized by Senators EDWARD KENNEDY and GORDON SMITH, along with the Human Rights Campaign and its coalition partners, to show support and build momentum for passage of Federal hate crimes legislation, "The Local Law Enforcement Enhancement Act."

Also participating in the rally today is a very brave and amazing constituent of mine, Trev Broudy. Trev is a handsome 34-year old actor from West Hollywood, CA, and he is also the victim of a hate crime motivated by his sexual orientation.

On September 1, 2003, Trev was hugging and saying goodbye to his friend, Teddy Ulett, on the street in West Hollywood when two men jumped out of a car without warning and began swinging at Trev's head with a baseball bat and an iron pipe.

After the attack, Trev was rushed to Cedars-Sinai Medical Center where doctors cleaned away pieces of skull from the back of his head and pieced together other parts of skull that had been crushed. He was then placed in an induced coma for over a week to guard against swelling of his brain.

Today, Trev looks and sounds fine, although he will never fully recover from the attack. He has said, "People assume because I look all right and I'm healthy and I'm walking and I'm talking, I'm all better, but I'm not."

When Trev finally left the hospital—10 weeks after the attack—he thought his injuries would eventually heal and he would soon return to work. How-

ever, Trev belatedly learned that a major part of his brain had to be removed, leaving him with only half the vision in both of his eyes.

Once having a good career as a voice-over artist, Trev now struggles with the results of his injuries every day and finds it difficult to read even the simplest sentence. He has returned home to his old apartment, but he will never be able to return to his old life.

Yet Trev is an inspiration and a hero to his family and friends back home, and particularly to other gay men and lesbians who see this heinous crime as a personal attack on their community.

Los Angeles' gay and lesbian community even came together and protested the county district attorney's decision not to file hate crime charges against the men suspected of beating Trev. Although the West Hollywood sheriff's station, which investigated the case, initially filed State hate crime charges, the district attorney's office chose not to file hate crimes enhancements in the case.

And, unfortunately, the limitations of current Federal hate crimes law prevent it from helping Trev because it does not extend basic civil rights protections to every American—only to a few and under certain circumstances.

Congress should expand the ability of the Federal Government to investigate hate crimes, and it should expand the ability to prosecute anyone who would target victims because of hate.

We can, and must, do more to prevent these types of hateful threats and acts of violence, and passing The Local Law Enforcement Enhancement Act would do just that.

The Local Law Enforcement Enhancement Act would: expand current Federal protections against hate crimes based on race, religion, and national origin; amend the criminal code to cover hate crimes based on gender, sexual orientation, and disability; authorize grants for State and local programs designed to combat and prevent hate crimes; and enable the Federal Government to assist State and local law enforcement in investigating and prosecuting hate crimes.

Enacting the Local Law Enforcement Enhancement Act is long overdue. It is necessary for the safety and well-being of millions of Americans. Until it is enacted, many hate crime victims and their families may not receive the justice they deserve.

Efforts to enact this legislation have received strong bipartisan support in the past, and the Local Law Enforcement Enhancement Act now has 48 cosponsors in the Senate. We just have not been able to get it to the President's desk for consideration.

Today, I ask all of my colleagues to rally against hate by working to ensure that this legislation is not simply supported but actually passed and signed into law. Let us send a message to all Americans that we will no longer turn a blind eye to hate crimes in this country.

## ADDITIONAL STATEMENTS

## TRIBUTE TO GREG BUCKNER

• Mr. BUNNING. Mr. President, I honor and pay tribute to one of Kentucky's finer athletes. Greg Buckner, a Hopkinsville native, was inducted into the Kentucky All-Star Hall of Fame for his distinguished accomplishments as a basketball player throughout his high school, college, and professional careers.

As a member of the University Heights Academy basketball team from 1991-1994, Greg led the Blazers to numerous victories including their first State basketball title in 1992 and a game winning record of 30-6 his senior year. At the completion of Greg's high school career, he participated in the Kentucky-Indiana High School All-Star Game. Greg distinguished himself in this contest relieving the Kentucky team of a 54-39 halftime deficit during the first of two games. Unfortunately, Kentucky lost that first game but would redeem itself later during the second game held in Indianapolis. Greg not only relieved Kentucky of a 16 point halftime deficit but made a jump shot with 6.5 seconds remaining to win the game, 75-73.

The experience of the Kentucky-Indiana High School All-Star game would benefit Greg Buckner for many years to come. Greg embraced the high demands inherent of the all-star game demonstrating the mental and physical abilities necessary to achieve success at the college and professional levels of basketball. It was no surprise that Greg's leadership benefitted Clemson during his college career culminating with a trip to the Elite Eight during the 1998 NCAA Tournament. Upon being drafted by the Dallas Mavericks, Greg established himself as a strong defensive player and valuable rebounder. He is now a member of the Philadelphia 76ers.

I am proud of Greg Buckner for his dedication and achievements on and off the court. His example of devotion, teamwork and leadership should be emulated by athletes throughout Kentucky and across America. I thank the Senate for allowing me to recognize Greg and voice his praises.●

## IN RECOGNITION OF THE 88th ANNIVERSARY OF THE ASBESTOS WORKERS LOCAL No. 42

• Mr. CARPER. Mr. President, I rise today to commemorate the 88th anniversary of the Asbestos Workers Local No. 42. The International Association of Heat and Frost Insulators and Asbestos Workers and the Local 42 have fought for better working conditions, health protection, employee rights, and to garner better wages for their members. They should be recognized for the work that they do.

The International Association of Heat and Frost Insulators and Asbestos Workers Union dates back to the late

1800s and the emergence of steam power. The expanded use of steam power during this era had a profound effect on the industrial sector leading to better heated and more efficient factories and plants, improved working conditions, and the creation of thousands of new manufacturing jobs.

The widespread use of steam power also created an entirely new industry—the insulation industry. Skilled insulation mechanics were needed to insulate steam boilers in an effort to conserve the precious energy being piped to residential and industrial facilities. The insulation mechanics who provided this craftsmanship worked almost totally without organized representation. By the end of the 19th century, a few localized associations attempted to look after the interests of their members in specific cities.

The first attempt to form a national bond between insulators associations came in 1900, when the Salamander Association of New York sent out an appeal to related crafts in other cities to form a "National Organization of Pipe and Boiler Covers." The initial appeal did spark interest, and 2 years later a much more decisive action was taken by the officers and members of the Pipe Cover's Union, of St. Louis, MO.

The St. Louis group sent out an announcement that it had affiliated with the National Building Trades Council of America, and invited other pipe coverer unions and related trades to join with them in the pursuit of better working conditions, pay that was commensurate with their skills, and the strength that comes from unity. The first appeal of unity was sent to targeted cities where other asbestos workers already were enjoying the benefits of union affiliation such as New York, Chicago, Cleveland, and Detroit. In all, seven local unions from around the Nation responded favorably, and the hard work of laying the foundation for an international union was begun.

With the St. Louis union leading the way, the interested locals met for their first convention on July 7, 1903, in the city of St. Louis. The results of that inaugural convention were impressive; a constitution was drafted and approved; bylaws were adopted; the first president was elected, Thomas Kennedy from Chicago; and a formal name was adopted, the National Association of Heat, Frost and General Insulators and Asbestos Workers of America. On September 22, 1903, the American Federation of Labor issued an official charter designating the Asbestos Workers as a national union.

The goals of the new International Union were spelled out in the charter: "The object of the International Association of Heat and Frost Insulators and Asbestos Workers shall be to assist its membership in securing employment, to defend their rights, and advance their interests as working men; and by education and cooperation raise them to that position in society to which they are justly entitled." Since

that time, leaders of the International Union took this objective to grow this small group of local unions to over 120 local unions and a membership in excess of 20,000.

On July 16, 1915, General President Joseph Mullaney organized and delivered Local Charter No. 42 to the Wilmington, DE, Asbestos Workers. Temporary officers were elected and on July 26, 1915, forty permanent officers were elected. Mr. R.E. Mahan was elected as president and N.K. Whaler was elected as secretary. Meetings were held at the Irish-American Hall on French Street every Monday. Local No. 42 began with just thirty members in 1915, with wages averaging \$0.32 per hour.

After World War II, the International Union's growth and prosperity was tempered by frightening new evidence that confirmed long-held suspicions by the International Union's leadership. Workers who were exposed to asbestos died in disproportionate numbers from cancer. Since this evidence was proven, the union has fought for passage of new safety and health laws to help protect its members as well as the public. The Environmental Protection Agency has banned the use of asbestos in the insulation industry in the United States. It has also been banned from use in many other products as well. The International Union continues to provide its members with education and training with the latest state-of-the-art work practices in the handling of any and all materials used in the industry.

Since 1915, Local No. 42 has grown to include some 130 active members and approximately 100 retired members. Today, the president, Jeff Smith, helps lead the way in protecting asbestos workers' rights as well as their health.

Through its long and proud history, the Asbestos Workers International Union and Local No. 42 have never shied away from adversity or allowed negative factors to impede the achievement of those admirable goals set out in the international charter of 1910. Through the determination and commitment of their leaders and members, the International Union and Local #42 continues to strive for employment opportunities, equality in the work place, continuing education, and the safety and well being of the membership.●

## MASTER SERGEANT ANTHONY PRYOR

• Mr. BUNNING. Mr. President, I honor and pay tribute to one of our Nation's most courageous and admirable heroes. MSG Anthony Pryor, stationed at Fort Campbell, KY, was awarded the Silver Star for his role in a deadly battle in Afghanistan last year. The Silver Star is the third highest military honor, given for valor and gallantry in combat. The inimitable leadership and bravery of MSG Pryor deserves commendation of the highest regard.

On January 25, 2002, MSG Pryor and four other soldiers of the 5th Special



Forces Group were deployed north of Kandahar for a night mission. While al-Qaida and Taliban fighters slept, they were assigned to take over an old schoolhouse building serving as an enemy compound. The mission turned deadly when the enemies awoke and began to shoot, compelling MSG Pryor and his team to return fire.

During the battle MSG Pryor was hit in the shoulder and fell to the ground, losing his night vision goggles. In the hand-to-hand combat that ensued in the dark, MSG Pryor managed to kill his attacker. A total of 21 Taliban and al-Qaida soldiers were killed, and one was detained. Most importantly, none of the Special Forces soldiers were killed.

In a ceremony delayed for over a year because of his deployment to Iraq, MSG Pryor exhibited unparalleled humility. Throughout the battle his concern was primarily for the welfare of his fellow soldiers, and this sentiment is echoed in MSG Pryor's insistence that the Silver Star award be a reflection of the deeds of the entire company.

MSG Anthony Pryor is a paragon of honor, bravery, and valor. His remarkable service to this country should be admired by all Americans. He is a tribute to the U.S. Army and Fort Campbell. I thank the Senate for allowing me to recognize MSG Pryor and extol his praises. •

#### MESSAGES FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 703. An act to designate the regional headquarters building for the National Park Service under construction in Omaha, Nebraska, as the "Carl T. Curtis National Park Service Midwest Regional Headquarters Building".

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2254. An act to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building".

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 220. Concurrent resolution commending Medgar Wiley Evers and his widow, Myrlie Evers-Williams, for their lives and accomplishments.

The message also announced that pursuant to 44 U.S.C. 2702, the Minority Leader appoints the following individual to the Advisory Committee on the Records of Congress for a term of 2 years: Mr. Joseph Cooper of Baltimore, Maryland.

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks,

announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2312. An act to amend the communications Satellite of 1962 to provide for the orderly dilution of the ownership interest in Inmarsat by former signatories to the Inmarsat Operating Agreement.

#### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The following enrolled bills and joint resolution, previously signed by the Speaker of the House, were signed on today, June 16, 2003, by the President pro tempore (Mr. STEVENS).

H.R. 1625. An act to designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the "Robert P. Hammer Post Office Building".

S. 763. An act to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse".

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

#### MEASURE REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2254. An act to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building"; to the Committee on Governmental Affairs.

#### ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 17, 2003, she had presented to the President of the United States the following enrolled bill and joint resolution:

S. 763. An act to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse".

S.J. Res. 8. A joint resolution expressing the sense of Congress with respect to raising awareness and encouraging prevent of sexual assault in the United States and supporting the goals and ideals of National Sexual Assault Awareness and Prevention Month.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-2749. A communication from the Assistant Secretary, Division of Corporate Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act

Periodic Reports (2126-AI66) (3235-AI79)" received on June 5, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-2750. A communication from the Chairman, Federal Reserve Board, transmitting, pursuant to law, the report relative to the observed trends in the cost and availability of retail banking services, received on June 4, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-2751. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determination 68 FR 22618 (Doc FEMA-P-7622)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2752. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations 68 FR 22616 (DOC, FEMA-D-7537)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2753. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations 68 FR 22620 (44 CFR 67)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2754. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations 68 FR 22622 (44 CFR 67)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2755. A communication from the Acting General Counsel, Office of the General Counsel, FEMA, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility 68 FR 23408 (44 CFR 64—Doc. FEMA-7807)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2756. A communication from the Assistant General Counsel, Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Appraiser Qualification for Placement on FHA Single Family Appraiser Roster (2502-AH59) (FR-4620-F-02)"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2757. A communication from the Deputy Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "31 CFR part 594—Global Terrorism Sanctions Regulations" received on June 3, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-2758. A communication from the Director, Office of Congressional and Legislative Affairs, transmitting, pursuant to law, the report of a draft bill entitled "Resolve Certain Trust Fund Accounting Discrepancies within the Individual Indian Money Investment Pool, and for other purposes" received on June 3, 2003; to the Committee on Indian Affairs.

EC-2759. A communication from the Assistant Secretary, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "29 CFR 1980, Procedures for Handling of Discrimination Complaints under Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act of 2002 (1218-AC10)" received on June 9, 2003; to the Committee on Health, Education, Labor, and Pensions.



EC-2760. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Change of Address; Technical Amendment" received on June 9, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2761. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, the 2003 annual report on the financial status of the railroad unemployment insurance system, received on June 11, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-2762. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerance (FRL 7310-8)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2763. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Glyphosate; Pesticide Tolerance (FRL 7308-8)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2764. A communication from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bacillus Pumilus Strain QST2808; Temporary Exemption From the Requirement of a Tolerance (FRL 7301-1)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2765. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Hot Water Dip Treatment for Mangoes (02-026-5)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2766. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Movement and Important of Fruits and Vegetables (00-059-2)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2767. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Phytosanitary Certificates for Imported Articles of Pelagium spp. and Solanum spp. Prevent Introduction of Potato Brown Rot (03-019-1)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2768. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Exotic Newcastle Disease; Removal of Areas from Quarantine (02-117-6)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2769. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Exotic Newcastle Disease; Additions to Quarantines Area (02-117-7)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2770. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of

a rule entitled "Ports Designed for Exportation of Livestock; Portland, OR (02-127-1)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2771. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Asian Longhorn Beetle; Quarantined Areas and Regulated Articles (03-018-1)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2772. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "2002 Farm Bill—Conservation Reserve Program—Long Term Policy (0560-AG74)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2773. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Bienergy Program (0560-AG84)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2774. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-94, "Inspector General Qualifications Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC-2775. A communication from the Secretary of Energy, transmitting pursuant to law, the report of the Office of Inspector General for the period of October 1, 2002 to March 31, 2003; to the Committee on Governmental Affairs.

EC-2776. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report concerning the Federal Student Loan Repayment Program for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC-2777. A communication from the District of Columbia Auditor, transmitting, a report concerning 4800 Addison Road; to the Committee on Governmental Affairs.

EC-2778. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the report of the Office of the Inspector General, and the Chairman's Semiannual Report for the period of October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC-2779. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled "NARA Facilities; Phone Numbers" (RIN3095-AB20) received on June 4, 2003; to the Committee on Governmental Affairs.

EC-2780. A communication from the Director, Office of Personnel Management, transmitting, a draft of proposed legislation entitled "Federal Employees Pay for Performance Act of 2003"; to the Committee on Governmental Affairs.

EC-2781. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the Department's Performance and Accountability Report for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC-2782. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period of October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC-2783. A communication from the Chair, Railroad Retirement Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period of October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC-2784. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Bus Testing" (RIN2132-AA30) received on June 9, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-2785. A communication from the Paralegal, Federal Transit Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Buy America Requirements: Amendment to Certification Procedures" (RIN2132-AA62) received on June 9, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-2786. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning the International Labour Conference; to the Committee on Foreign Relations.

EC-2787. A communication from the Under Secretary of Defense, Personnel and Readiness, transmitting, the report of retirements, received on June 8, 2003; to the Committee on Armed Services.

EC-2788. A communication from the Deputy Chief of Naval Operations, Manpower and Personnel, Department of Defense, transmitting, pursuant to law, conversion to contractor performance by 68 Department of Defense Civilian Employees; to the Committee on Armed Services.

EC-2789. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's Fleet Alternate Fuel Vehicle Program Report for Fiscal Year 2002; to the Committee on Energy and Natural Resources.

EC-2790. A communication from the Assistant Secretary of the Interior, Bureau of Land Management, Office of Hearings and Appeals, transmitting, pursuant to law, the report of a rule entitled "Special Rules Applicable of Public Land Hearings and Appeals; Grazing Administration-Exclusive of Alaska, Administrative Remedies; Grazing Administration-Effect of Wildfire Management Decisions; Administration of Forest Management Decisions" received on June 5, 2003; to the Committee on Energy and Natural Resources.

EC-2791. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Emergency Reconstruction of Interstate Natural Gas Facilities Under the Natural Gas Act" (Doc. No. RM03-4-000, AD02-14-000) received on June 5, 2003; to the Committee on Energy and Natural Resources.

EC-2792. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended-Additional International Organization" (RIN1400-AB53) received on June 9, 2003; to the Committee on the Judiciary.

EC-2793. A communication from the Chief of the Regulations Branch, Bureau of Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Customs Broker License Examination Dates" (RIN1515-AD28) received on June 3, 2003; to the Committee on the Judiciary.

EC-2794. A communication from the Director, Office of Science and Technology Policy, Executive Office of the President, transmitting, pursuant to law, a report concerning visas; to the Committee on the Judiciary.

EC-2795. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation entitled

"Department of Justice Appropriations Authorization Act, Fiscal Years 2004 and 2005"; to the Committee on Governmental Affairs.

EC-2796. A communication from the Administrator, Transportation Security Administration, Department of Transportation, transmitting, pursuant to law, a report on less than lethal weapons; to the Committee on Commerce, Science, and Transportation.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LOTT, from the Committee on Rules and Administration:

Special Report entitled "Authorizing Expenditures by Committees of the Senate, with respect to S. Res. 66" (Rept. No. 108-73).

### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Ms. COLLINS for the Committee on Governmental Affairs.

\*Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2003.

\*Terrence A. Duffy, of Illinois, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2007.

\*Michael J. Garcia, of New York, to be an Assistant Secretary of Homeland Security.

\*C. Stewart Verdery, Jr., of Virginia, to be an Assistant Secretary of Homeland Security.

\*Susanne T. Marshall, of Virginia, to be Chairman of the Merit Systems Protection Board.

\*Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2009.

\*Albert Casey, of Texas, to be a Governor of the United States Postal Service for a term expiring December 8, 2009.

\*James C. Miller III, of Virginia, to be a Governor of the United States Postal Service for the term expiring December 8, 2010.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself, Mr. INOUE, and Mr. BINGAMAN):

S. 1271. A bill to enhance the criminal penalties for illegal trafficking of archeological resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CORZINE (for himself, Mr. BAYH, Mrs. CLINTON, and Mr. KENNEDY):

S. 1272. A bill to amend the Occupational Safety and Health Act of 1970 to modify the provisions relating to citations and penalties; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. JEFFORDS, Mr. ED-

WARDS, Mr. REED, Mrs. CLINTON, Mrs. MURRAY, Mr. BINGAMAN, Mr. DODD, and Mr. HARKIN):

S. 1273. A bill to provide for a study to ensure that students are not adversely affected by changes to the needs analysis tables, and to require the Secretary of Education to consult with the Advisory Committee on Student Financial Assistance regarding such changes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. BAYH, Ms. MIKULSKI, and Mr. ROCKEFELLER):

S. 1274. A bill to reauthorize and reform the national service laws; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (by request):

S. 1275. A bill to establish a comprehensive federal program to provide benefits to U.S. victims of international terrorism, and for other purposes; to the Committee on Foreign Relations.

### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself and Mrs. DOLE):

S. Res. 172. A resolution honoring the life of media reporting giant David Brinkley, and expressing the deepest condolences of the Senate to his family on his death; considered and agreed to.

By Mr. MCCAIN (for himself, Mr. KYL, Mr. SESSIONS, and Mr. FEINGOLD):

S. Res. 173. A resolution to amend Rule XVI of the Standing Rules of the Senate with respect to new or general legislation and unauthorized appropriations in general appropriations bills and amendments thereto, and new or general legislation, unauthorized appropriations, new matter, or non-germane matter in conference reports on appropriations Acts, and unauthorized appropriations in amendments between the Houses relating to such Acts, and for other purposes; to the Committee on Rules and Administration.

### ADDITIONAL COSPONSORS

S. 1

At the request of Mr. GRASSLEY, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1, a bill to amend title XVIII of the Social Security Act to make improvements in the Medicare program, to provide prescription drug coverage under the Medicare program, and for other purposes.

S. 22

At the request of Mr. DASCHLE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 22, a bill to enhance domestic security, and for other purposes.

S. 98

At the request of Mr. ALLARD, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 98, a bill to amend the Bank Holding Company Act of 1956, and the Revised Statutes of the United States, to prohibit financial holding

companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 610

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 610, a bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

S. 617

At the request of Mr. LIEBERMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 617, a bill to provide for full voting representation in Congress for the citizens of the District of Columbia, and for other purposes.

S. 678

At the request of Mr. AKAKA, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 780

At the request of Mr. LOTT, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

S. 888

At the request of Mr. GREGG, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 888, a bill to reauthorize the Museum and Library Services Act, and for other purposes.

S. 894

At the request of Mr. WARNER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 939

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 982

At the request of Mr. SANTORUM, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 982

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 982, *supra*.

S. 1001

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1001, a bill to make the protection of women and children who are affected by a complex humanitarian emergency a priority of the United States Government, and for other purposes.

S. 1091

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and

permanent tributes to America's veterans.

S. 1110

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1110, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes.

S. 1121

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1121, a bill to extend certain trade benefits to countries of the greater Middle East.

S. 1166

At the request of Ms. COLLINS, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1166, a bill to establish a Department of Defense national security personnel system and for other purposes.

S. 1186

At the request of Mr. EDWARDS, the name of the Senator from Louisiana (Mr. BREAU) was added as a cosponsor of S. 1186, a bill to provide for a reduction in the backlog of claims for benefits pending with the Department of Veterans Affairs.

S. 1200

At the request of Ms. CANTWELL, the names of the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1200, a bill to provide lasting protection for inventoried roadless areas within the National Forest System.

S. 1222

At the request of Mr. NELSON of Nebraska, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1226

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1226, a bill to coordinate efforts in collecting and analyzing data on the incidence and prevalence of developmental disabilities, and for other purposes.

S. 1248

At the request of Mr. GREGG, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Iowa (Mr. HARKIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1248, a bill to reauthorize the Individuals with Dis-

abilities Education Act, and for other purposes.

S. CON. RES. 55

At the request of Ms. SNOWE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Con. Res. 55, a concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 55th Annual Meeting of the International Whaling Commission.

S. RES. 119

At the request of Ms. COLLINS, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 119, a resolution expressing the sense of the Senate that there should be parity among the countries that are parties to the North American Free Trade Agreement with respect to the personal exemption allowance for merchandise purchased abroad by returning residents, and for other purposes.

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. INOUE, and Mr. BINGAMAN):

S. 1271. A bill to enhance the criminal penalties for illegal trafficking of archaeological resources, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LEAHY. Mr. President, I rise today to introduce the Enhanced Protection of Our Cultural Heritage Act. This legislation was reported last year by the Energy Committee, and I hope that this year it will become law. The bill would increase the maximum penalties for violations of three existing statutes that protect the cultural and archaeological history of the American people, particularly Native Americans. The United States Sentencing Commission asked Congress last year to make these statutory changes, which would complement the Commission's strengthening of Federal sentencing

guidelines to ensure more stringent penalties for criminals who steal from our public lands. Senator INOUE joins me as a cosponsor.

This bill will increase the maximum penalties for the Archaeological Resources Protection Act, ARPA, 16 USC §470ee, the Native American Graves Protection and Repatriation Act, NAGPRA, 18 USC §1170, and for 18 USC §1163, which prohibits theft from Indian Tribal Organizations. All three statutes currently impose a 5-year maximum sentence, and each includes a lower maximum for a first offense of the statute and/or a violation of the statute involving property of less than a specified value. This bill would create a 10-year maximum sentence for each statute. In response to comments from the administration last year, the bill retains misdemeanor offenses for relatively minor offenses.

The increased maximum sentences would be consistent with similar Federal statutes. For example, the 1994 law proscribing museum theft carries a 10-year maximum sentence, as do the general statutes punishing theft and the destruction of Government property. Moreover, increasing the maximum sentences will give judges and the Sentencing Commission greater discretion to impose punishments appropriate to the amount of destruction a defendant has done.

Making these changes will also enable the Sentencing Commission's 2002 sentencing guidelines to be fully implemented. The Commission has increased sentencing guidelines for cultural heritage crimes, but the statutory maximum penalties contained in current law will prevent judges from issuing sentences in the upper range of the new guidelines. The 2002 guidelines had the enthusiastic support of the Justice and Interior Departments, the Society for American Archeology, the National Trust for Historic Preservation, numerous Native American nations, and many others. Congress should take the steps necessary to see the guidelines take full effect.

Two of the three laws this bill amends protect Native American lands and property. The third, ARPA, protects both public and Indian lands, and provides significant protection to my State of Vermont. For example, ARPA can be used to prosecute those who would steal artifacts from the wrecked military vessels at the bottom of Lake Champlain that date to the Revolutionary War and the War of 1812. U.S. Attorneys can also use ARPA to prosecute criminals who take items that are at least 100 years old from a protected site on Vermont state property without a permit, and then transport those goods into another state. In addition, ARPA protects artifacts found on the approximately 5 percent of Vermont land that is Federal property, land that includes many "ghost towns" that have long been abandoned but are an important part of our history.

Those who would pillage the rich cultural heritage of this nation and its

people are committing serious crimes. These artifacts are the legacy of all Americans and should not be degraded as garage sale commodities or as fodder for private enrichment.

I would like to thank a number of people for their help and advice about this legislation. Charlie Tetzlaff, as well as the rest of the staff at the Sentencing Commission, helped us understand the importance of this issue, and made protecting our cultural heritage a priority when he served as United States Attorney for Vermont. Art Cohn, the director of the Lake Champlain Maritime Museum, and Giovanna Peebles, Vermont's State Archeologist, were very helpful in explaining how our laws protect the cultural heritage of Vermont and the rest of the nation, and I am grateful for their support for this bill.

Passage of this legislation would demonstrate Congress' commitment to preserving our Nation's history and our cultural heritage. I urge my colleagues to support this common-sense initiative.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1271

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Protection of Our Cultural Heritage Act of 2003".

#### SEC. 2. ENHANCED PENALTIES FOR CULTURAL HERITAGE CRIMES.

(a) ENHANCED PENALTY FOR EMBEZZLEMENT AND THEFT FROM INDIAN TRIBAL ORGANIZATIONS.—Section 1163 of title 18, United States Code, is amended by striking "five years" and inserting "10 years".

(b) ENHANCED PENALTY FOR ILLEGAL TRAFFICKING IN NATIVE AMERICAN HUMAN REMAINS AND CULTURAL ITEMS.—Section 1170 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "or imprisoned not more than 12 months, or both, and in the case of second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years" and inserting "imprisoned not more than 10 years"; and

(2) in subsection (b), by striking "imprisoned not more than one year" and all that follows through the end of the subsection and inserting "imprisoned not more than 10 years, or both; but if the sum of the commercial and archaeological value of the cultural items involved and the cost of restoration and repair of such items does not exceed \$500, such person shall be fined in accordance with this title, imprisoned not more than 1 year, or both.".

(c) ENHANCED PENALTY FOR ARCHAEOLOGICAL RESOURCES.—Section 6(d) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee(d)) is amended by striking "not more than \$10,000" and all that follows through the end of the subsection and inserting "in accordance with title 18, United States Code, imprisoned not more than 10 years, or both; but if the sum of the commercial and archaeological value of the archaeological resources involved and the cost of restoration and repair of such re-

sources does not exceed \$500, such person shall be fined in accordance with title 18, United States Code, imprisoned not more than 1 year, or both.".

By Mr. CORZINE (for himself, Mr. BAYH, Mrs. CLINTON, and Mr. KENNEDY):

S. 1272. A bill to amend the Occupational Safety and Health Act of 1970 to modify the provisions relating to citations and penalties; to the Committee on Health, Education, Labor and Pensions.

Mr. CORZINE. Mr. President, I rise to introduce the "Wrongful Death Accountability Act," legislation that would, among other things, increase the maximum criminal penalty for those who willfully violate workplace safety laws and cause the death of an employee.

Unbelievably, under existing law, that crime is a misdemeanor, and carries a maximum prison sentence of just 6 months. This legislation would increase the penalty for this most egregious workplace crime to 10 years—making it a felony. The bill also would increase the penalty associated with lying to an OSHA inspector from 6 months to 1 year, and would increase the penalty for illegally giving advance warning of an upcoming inspection from 6 months to 2 years.

In recent months, this Congress has focused on a shocking succession of corporate scandals: Enron, Tyco, WorldCom, to name a few. These revelations of corporate abuse raised the ire and indignation of the American people. But corporate abuses can sometimes go further than squandering employee pension funds and costing shareholder value. Sometimes, corporate abuses can cost lives.

My legislation is based on the simple premise that going to work should not carry a death sentence. Annually, more than 6,000 Americans are killed on the job, and some 50,000 more die from work-related illnesses. Many of those deaths—deaths that leave wives without husbands, brothers without sisters, and children without parents—are completely preventable.

Earlier this year, the New York Times published an eye-opening, multi-part series that documented the failure of the Federal government to prosecute violators of workplace safety laws. The articles were deeply disturbing to anyone concerned about the health and well being of workers in America, detailing one company's pattern of recklessly disregarding basic safety rules. The authors linked at least nine employee deaths in five states—New York, New Jersey, Ohio, Alabama, and Texas—over a 7-year period with the failure of a single company, McWane Foundry, to follow established workplace safety regulations. Three of those deaths were judged to have been caused by deliberate and willful violations of federal safety rules.

As a result of that article and a subsequent criminal investigation, McWane has begun to clean up its act.

But no one should be deluded. McWane is not the only company with a record of putting employees at risk. Others—although still the clear minority—continue to flout workplace safety rules and jeopardize the health and well being of workers.

The administration recognized that there was a problem and recently announced its “enhanced enforcement policy,” a small step in the right direction. But more needs to be done, and I have requested the support of Secretary Henshaw, Administrator of OSHA, for my legislation.

While many factors contribute to the unsafe working environment that exists at certain jobsites, one easily remedied factor is an ineffective regime of criminal penalties. The criminal statutes associated with OSHA have been on the books since the 1970s, but—over time—the deterrence value of these important workplace safety laws has eroded substantially. With the maximum jail sentence a paltry 6 months, Federal prosecutors have only a minimal incentive to spend time and resources prosecuting renegade employers. According to a recent analysis, since the Occupational Safety and Health Act was enacted, only 11 employers who caused the death of a worker on the job were incarcerated.

The logic behind this legislation is simple. The bill will increase the incentive for prosecutors to hold renegade employers accountable for endangering the lives of their workers and, thereby, help ensure that OSHA criminal penalties cannot be safely ignored. This will provide the OSHA criminal statute with sufficient teeth to deter the small percentage of bad actors who knowingly and willfully place their employees at risk.

I urge my colleagues to support this important piece of legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1272

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Wrongful Death Accountability Act.”

#### SEC. 2. OSHA CRIMINAL PENALTIES.

Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (e)—

(A) by striking “fine of not more than \$10,000” and inserting “fine in accordance with section 3571 of title 18, United States Code,”;

(B) by striking “six months” and inserting “10 years”;

(B) by striking “fine of not more than \$20,000” and inserting “fine in accordance with section 3571 of title 18, United States Code,”;

(C) by striking “one year” and inserting “20 years”; and

(E) by inserting “under this subsection or subsection (i)” after “first conviction of such person”;

(2) in subsection (f), by striking “fine of not more than \$1,000 or by imprisonment for not more than six months,” and inserting “fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 2 years,”; and

(3) in subsection (g), by striking “fine of not more than \$10,000, or by imprisonment for not more than six months,” and inserting “fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 1 year.”

By Mr. KENNEDY (for himself, Mr. DASCHLE, Mr. JEFFORDS, Mr. EDWARDS, Mr. REED, Mrs. CLINTON, Mrs. MURRAY, Mr. BINGAMAN, Mr. DODD, and Mr. HARKIN):

S. 1273. A bill to provide for a study to ensure that students are not adversely affected by changes to the needs analysis tables, and to require the Secretary of Education to consult with the Advisory Committee on Student Financial Assistance regarding such changes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senator DASCHLE, Senator JEFFORDS, Senator EDWARDS, Senator REED, Senator CLINTON, Senator MURRAY, Senator BINGAMAN and Senator DODD, to introduce legislation to amend the Higher Education Act to require a feasibility and impact study on the recent changes in the state and local tax tables that are the basis for determining need-based aid for college students.

The bill will direct GAO to complete a study in consultation with the Advisory Committee on Student Financial Assistance within 90 days, well in advance of the 04-05 academic year when these changes would take effect. The advisory committee is a non-partisan board appointed by the President, which oversees college financial aid. Any future changes in the tables would have to be considered in consultation with the Advisory Committee.

When decisions are made that affect the cost of college, it is important for Congress to understand the factors that influenced that decision and the practical impact of those decisions on students. In light of the slumping economy, State budget crises, and rising college costs, the Department's proposed changes come at a very difficult time for students and their families. Raising the cost of tuition by a few hundred dollars may well mean that qualified students can no longer afford college. It is our responsibility to see that any such changes are made for sound reasons.

I also urge the Department of Education to work with Congress in the future in making these decisions, so that all of us in the House and Senate will have a reasonable opportunity to consider such changes before they are made.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1273

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. STUDY AND CONSULTATION.

(a) STUDY.—In order to ensure that students are not adversely affected by the proposed changes to the tables used in the Federal Needs Analysis Methodology to determine a student's expected family contribution for the award year 2004-2005 under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.), the Comptroller General, in consultation with the Advisory Committee on Student Financial Assistance, shall conduct a study of such proposed changes that shall include an examination of the impact of such changes on students. A report of the findings of the study shall be transmitted to the Secretary of Education and the appropriate committees of Congress not later than 90 days after the date of enactment of this Act.

(b) CONSULTATION.—Section 478 of the Higher Education Act of 1965 (20 U.S.C. 1087rr) is amended by adding at the end the following:

“(i) CONSULTATION REQUIRED.—Prior to publishing any notice or promulgating any regulation with respect to updated tables under this section, the Secretary shall consult with the Advisory Committee on Student Financial Assistance regarding such updated tables.”.

By Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. BAYH, Ms. MIKULSKI, and Mr. ROCKEFELLER):

S. 1274. A bill to reauthorize and reform the national laws; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in introducing legislation to reauthorize the Corporation for National Service. In 1993 the bipartisan National Service Act created a new program to give citizens of all ages the opportunity to serve their communities. Our goal now is to work with the administration to promote and expand service through the State commissions and the extensive system of national organizations that recruit, train and place volunteers and mentors. The legislation we are introducing, the Call to Service Act, will reauthorize the Corporation for National Service and keep these programs on track to achieve this goal.

Over 250,000 Americans have given a year of service in communities across the country, tutoring young people, connecting people to health care, and building stronger communities. Through the AmeriCorps model, we can give more young people the support they need to dedicate a year of their lives to service. These are active citizens, and our country will benefit immensely from the lessons we learn in serving others.

Community service knows no age limits. Thousands of older Americans volunteer to tutor young people or support others in living independently, or serve in local agencies. Senior citizens are a valuable resource in every community, and service gives them an effective way to continue to be involved

in the communities they helped to build. The Foster Grandparent, Senior Companion, and RSVP programs, enable seniors to contribute every day to their communities.

The Learn and Serve programs enable young men and women to learn early in their lives that serving others is important, and that service is a basic responsibility of citizenship. Children learn the value of community service, and build habits of service that last a lifetime. Service learning programs for elementary and secondary students provide hands-on experiences to supplement traditional school curriculums. The evidence is irrefutable. Service learning works. When students help others in their communities, they do better academically in school too.

In terms of cost effectiveness, the Federal Learn and Serve America program is an excellent investment. In the 2001-2002 school year more than 800,000 students across the country from grades K through 12 had the opportunity to serve their community, raise their academic achievement, and develop social skills. In Massachusetts, over 86,000 students of all ages currently participate in Learn and Serve programs.

Our bill strengthens our commitment to service by increasing the number of volunteers in AmeriCorps, lowering the age for senior service from 60 to 55 and increasing the authorization for Learn and Serve. In addition, our bill creates a new service opportunity for high school students. After completing 300 hours of service to their community, high school students will earn a \$1,000 award to use on college. This increases the critical service to communities, builds the habit of serving in young people and sets them on track to continue their education.

I hope that my colleagues will support this legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1274

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Call to Service Act".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### **TITLE I—AMENDMENTS TO NATIONAL AND COMMUNITY SERVICE ACT OF 1990**

Sec. 1001. References.

##### **Subtitle A—General Provisions**

Sec. 1101. Purposes of Act.

Sec. 1102. Definitions.

##### **Subtitle B—Service-Learning**

Sec. 1201. School-based allotments.

Sec. 1202. Higher education provisions.

Sec. 1203. Community-based programs, training, and other initiatives.

Sec. 1204. Service-learning clearinghouse.

##### **Subtitle C—National Service Trust Program**

Sec. 1301. Prohibition on grants to Federal agencies; limits on Corporation costs.

Sec. 1302. E-Corps and technical amendments to types of programs.

Sec. 1303. Types of positions.

Sec. 1304. Training and technical assistance.

Sec. 1305. Assistance to State Commissions; challenge grants.

Sec. 1306. Allocation of assistance to States and other eligible entities.

Sec. 1307. Additional authority.

Sec. 1308. State selection of programs.

Sec. 1309. Consideration of applications.

Sec. 1310. Description of participants.

Sec. 1311. Reference to Federal agency.

Sec. 1312. Terms of service.

Sec. 1313. Adjustments to living allowance.

##### **Subtitle D—National Service Trust and Provision of National Service Educational Awards**

Sec. 1401. Availability of funds in the National Service Trust.

Sec. 1402. Individuals eligible to receive a national service educational award from the Trust.

Sec. 1403. Determination of the amount of national service educational awards.

Sec. 1404. Disbursement of national service educational awards.

Sec. 1405. Additional uses of national service trust amounts.

##### **Subtitle E—National Civilian Community Corps**

Sec. 1501. Purpose.

Sec. 1502. National Civilian Community Corps.

Sec. 1503. Program components.

Sec. 1504. Eligible participants.

Sec. 1505. Summer national service program.

Sec. 1506. Team leaders.

Sec. 1507. Consultation with State Commissions.

Sec. 1508. Permanent cadre.

Sec. 1509. Contract and grant authority.

Sec. 1510. Other departments.

Sec. 1511. Repeal of authority for advisory board and funding limitation.

Sec. 1512. Definitions.

Sec. 1513. Terminology.

##### **Subtitle F—Administrative Provisions**

Sec. 1601. Family and medical leave.

Sec. 1602. Additional prohibitions on use of funds.

Sec. 1603. Notice, hearing, and grievance procedures.

Sec. 1604. Resolution of displacement complaints.

Sec. 1605. State Commissions on National and Community Service.

Sec. 1606. Evaluation and accountability.

Sec. 1607. Technical amendment.

Sec. 1608. Additional administrative provisions.

##### **Subtitle G—Corporation for National and Community Service**

Sec. 1701. Terms of office.

Sec. 1702. Board of Directors authorities and duties.

Sec. 1703. Peer reviewers.

Sec. 1704. Officers.

Sec. 1705. Nonvoting members; personal services contracts.

Sec. 1706. Donated services.

##### **Subtitle H—Investment for Quality and Innovation**

Sec. 1801. Technical amendments to subtitle H.

Sec. 1802. Clearinghouses.

Sec. 1803. Repeal of special demonstration project.

##### **Subtitle I—Additional Authorities**

Sec. 1901. America's Promise: The Alliance for Youth.

##### **Subtitle J—Points of Light Foundation**

Sec. 1911. Purposes.

Sec. 1912. Board of Directors.

Sec. 1913. Grants to the Foundation.

Subtitle K—Authorization of Appropriations

Sec. 1921. Authorization.

#### **TITLE II—AMENDMENTS TO THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973**

Sec. 2001. References.

##### **Subtitle A—National Volunteer Antipoverty Programs**

Sec. 2101. Purpose.

Sec. 2102. Purpose of the VISTA program.

Sec. 2103. Applications.

Sec. 2104. Terms and periods of service.

Sec. 2105. Sections repealed.

Sec. 2106. Redesignation.

Sec. 2107. University Year for VISTA Program.

Sec. 2108. Conforming amendment.

##### **Subtitle B—National Senior Service Corps**

Sec. 2201. Change in name.

Sec. 2202. Purpose.

Sec. 2203. Grants and contracts for volunteer service projects.

Sec. 2204. Foster Grandparent Program grants.

Sec. 2205. Senior Companion Program grants.

Sec. 2206. Technical amendments.

Sec. 2207. Programs of national significance.

Sec. 2208. Additional provisions.

##### **Subtitle C—Administration and Coordination**

Sec. 2301. Nondisplacement.

Sec. 2302. Definitions.

Sec. 2303. Protection against improper use.

Sec. 2304. Income verification.

Sec. 2305. Sections repealed.

Sec. 2306. Redesignations.

##### **Subtitle D—Authorization of Appropriations**

Sec. 2401. Authorization of appropriations for VISTA and other purposes.

Sec. 2402. Authorization of appropriations for National Senior Service Corps.

Sec. 2403. Administration and coordination.

Sec. 2404. Redesignations.

#### **TITLE III—AMENDMENTS TO OTHER LAWS**

Sec. 3001. Inspector General Act of 1978.

#### **TITLE IV—TECHNICAL AMENDMENTS TO TABLES OF CONTENTS**

Sec. 4001. Table of contents for the National and Community Service Act of 1990.

Sec. 4002. Table of contents for the Domestic Volunteer Service Act of 1973.

#### **TITLE V—EFFECTIVE DATE AND SENSE OF CONGRESS**

Sec. 5001. Effective date.

Sec. 5002. Service assignments and agreements.

Sec. 5003. Sense of Congress.

Sec. 5004. Recruitment and application materials in languages other than English.

#### **TITLE I—AMENDMENTS TO NATIONAL AND COMMUNITY SERVICE ACT OF 1990**

##### **SEC. 1001. REFERENCES.**

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision, the reference shall be considered to be made to a provision of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

##### **Subtitle A—General Provisions**

##### **SEC. 1101. PURPOSES OF ACT.**

Section 2(b) (42 U.S.C. 12501(b)) is amended—

(1) in paragraph (7), by striking "citizens; and" and inserting "citizens;";

(2) in paragraph (8), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(9) expand and strengthen service-learning programs to improve the education of children and youth and to maximize the benefits of national and community service;

"(10) support efforts to assist the nonprofit sector in becoming more effective in meeting the unmet human, educational, environmental, and public safety needs of the United States; and

"(11) assist in coordinating and strengthening Federal and other citizen service opportunities, including opportunities for participation in homeland security preparedness and response, including training for limited duration national service."

#### SEC. 1102. DEFINITIONS.

Section 101 (42 U.S.C. 12511) is amended—

(1) in paragraph (13), by striking "section 101(a) of the Higher Education Act of 1965" and inserting "sections 101(a) and 102(a)(1) of the Higher Education Act of 1965";

(2) in paragraph (19), by striking "section 198, 198C, or 198D" and inserting "section 198 or 198C"; and

(3) in paragraph (21)(B)—

(A) by striking "section 602(a)(1)" and inserting "section 602(3)"; and

(B) by striking "20 U.S.C. 1401(a)(1)" and inserting "20 U.S.C. 1401(3)".

#### Subtitle B—Service-Learning

##### SEC. 1201. SCHOOL-BASED ALLOTMENTS.

Part I of subtitle B of title I (42 U.S.C. 12521 et seq.) is amended to read as follows:

#### "PART I—PROGRAMS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS

##### "Subpart A—Programs for Students

##### "SEC. 111. ASSISTANCE TO STATES AND INDIAN TRIBES.

"(a) ALLOTMENTS TO STATES, TERRITORIES, AND INDIAN TRIBES.—The Corporation, after consultation with the Secretary of Education, may make allotments to State educational agencies (including such educational agencies of States described in section 112(a)) and Indian tribes to pay for the Federal share of—

"(1) planning and building the capacity within the State or tribe to implement service-learning programs that are based principally in elementary schools and secondary schools, including—

"(A) providing high-quality training for teachers, supervisors, personnel from community-based agencies (particularly with regard to the utilization of participants), and trainers, to be conducted by qualified individuals or organizations that have experience with service-learning;

"(B) developing service-learning curricula, consistent with State or local student academic achievement standards, to be integrated into academic programs, including an age-appropriate learning component that provides participants an opportunity to analyze and apply their service experiences;

"(C) forming local partnerships described in paragraph (2) or (4)(E) to develop school-based service-learning programs in accordance with this subpart;

"(D) devising appropriate methods for research and evaluation of the educational value of service-learning and the effect of service-learning activities on communities; and

"(E) establishing effective outreach and dissemination of information to ensure the broadest possible involvement of community-based agencies with demonstrated effectiveness in working with school-age youth in their communities;

"(2) implementing, operating, or expanding school-based service-learning programs, which may include paying for the cost of the recruitment, professional development, training, supervision, placement, salaries,

and benefits of service-learning coordinators, through distribution by State educational agencies and Indian tribes of Federal funds made available under this subpart to projects operated by local partnerships among—

"(A) local educational agencies; and

"(B) 1 or more community partners that—

"(i) shall include a public or private nonprofit organization that—

"(I) has a demonstrated expertise in the provision of services to meet unmet human, educational, environmental, or public safety needs; and

"(II) will make projects available for participants, who shall be students;

"(ii) may include an Indian tribe; and

"(iii) shall include a private for-profit business or private elementary school or secondary school;

"(3) planning of school-based service-learning programs, through distribution by State educational agencies and Indian tribes of Federal funds made available under this subpart to local educational agencies, which planning may include paying for the cost of—

"(A) the salaries and benefits of service-learning coordinators; or

"(B) the recruitment, professional development, training, supervision, and placement of service-learning coordinators (who may be participants in a program under subtitle C or eligible to receive a national service educational award under subtitle D),

who will identify the community partners described in paragraph (2)(B) and assist in the design and implementation of a program described in paragraph (2); or

"(4) implementing, operating, or expanding school-based service-learning programs to utilize service-learning to improve the education of students, through distribution by State educational agencies and Indian tribes of Federal funds made available under this subpart to—

"(A) local educational agencies;

"(B) public or private nonprofit organizations;

"(C) other educational agencies;

"(D) Indian tribes; or

"(E) partnerships of local educational agencies and entities described in subparagraphs (B), (C), and (D).

"(b) DUTIES OF SERVICE-LEARNING COORDINATOR.—A service-learning coordinator referred to in paragraph (2) or (3) of subsection (a) shall provide services to a recipient of financial assistance under this subpart that may include—

"(1) providing technical assistance and information to, and facilitating the training of, teachers who want to use service-learning in their classrooms;

"(2) assisting local partnerships described in subsection (a) in the planning, development, and execution of service-learning projects; and

"(3) carrying out such other duties as the recipient of financial assistance under this subpart may determine to be appropriate.

"(c) RELATED EXPENSES.—A recipient of financial assistance under this subpart may, in carrying out the activities described in subsection (a), use such assistance to pay for the Federal share of reasonable costs related to the supervision of participants, program administration, transportation, insurance, and evaluations, and of other reasonable expenses related to the activities.

##### "SEC. 112. ALLOTMENTS.

"(a) INDIAN TRIBES AND TERRITORIES.—Of the funds appropriated to carry out this subpart for any fiscal year, the Corporation shall reserve an amount of not more than 3 percent for payments to Indian tribes, the United States Virgin Islands, Guam, Amer-

ican Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(b) ALLOTMENTS TO STATES.—After reserving an amount under subsection (a), the Corporation shall use the remainder of the funds appropriated for any fiscal year to carry out this subpart as follows:

"(1) ALLOTMENTS.—

"(A) SCHOOL-AGE YOUTH.—The Corporation shall allot to each State an amount that bears the same ratio to 50 percent of such remainder as the number of school-age youth in the State bears to the total number of school-age youth of all States.

"(B) ALLOCATION UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Corporation shall allot to each State an amount that bears the same ratio to 50 percent of such remainder as the allocation to the State for the previous fiscal year under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) bears to the total of such allocations to all States.

"(2) DEFINITION.—Notwithstanding section 101(26), in this subsection, the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(c) REALLOTMENT.—If the Corporation determines that the allotment of a State or Indian tribe under this section will not be required for a fiscal year because the State or Indian tribe did not submit an application for the allotment under section 113 that meets the requirements of such section and such other requirements as the Chief Executive Officer may determine to be appropriate, the Corporation shall make such allotment available for reallocation in accordance with subsections (a) and (b) to such other States and Indian tribes, with approved applications submitted under section 113, as the Corporation may determine to be appropriate.

##### "SEC. 113. APPLICATIONS.

"To be eligible to receive an allotment under this subpart, a State or Indian tribe shall submit an application to the Corporation at such time, in such manner, and containing such information as the Chief Executive Officer may reasonably require, including—

"(1) a proposal for a 3-year plan promoting service-learning through the programs described in section 111, which shall contain such information as the Chief Executive Officer may reasonably require, including how the applicant will integrate service opportunities into the academic program of the participants;

"(2) information, in applicable cases, about the applicant's efforts to—

"(A) include in the programs opportunities for students, enrolled in schools or other programs providing elementary or secondary education under State law, to participate in service-learning programs and ensure that such service-learning programs include opportunities for such students to serve together;

"(B) involve participants in the design and operation of the programs;

"(C) promote service-learning in areas of greatest need, including low-income areas; and

"(D) ensure that students of different ages, races, sexes, ethnic groups, disabilities, and economic backgrounds have opportunities to serve together; and

"(3) assurances that the applicant will comply with the nonduplication and non-displacement requirements of section 177 and the grievance procedure requirements of section 176(f).



**“SEC. 114. CONSIDERATION OF APPLICATIONS.**

“In considering applications under this subpart, the Corporation shall use criteria that include those approved by the Chief Executive Officer, after consideration of criteria recommended by the Board of Directors.

**“SEC. 115. FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.**

“(a) **FEDERAL SHARE.**—

“(1) **IN GENERAL.**—The Federal share of the cost of carrying out a program for which an allotment is made under this subpart may not exceed 50 percent of the total cost of carrying out the program.

“(2) **NON-FEDERAL CONTRIBUTION.**—In providing for the remaining share of the cost of carrying out such a program, each recipient of an allotment under this subpart—

“(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

“(B) may provide for such share through State sources or local sources.

“(b) **WAIVER.**—The Chief Executive Officer may waive the requirements of subsection (a) in whole or in part with respect to any such program for any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

**“SEC. 116. LIMITATIONS ON USES OF FUNDS.**

“(a) **LIMITATION.**—Not more than 5 percent of the amount of assistance provided to a State or Indian tribe that is the original recipient of an allotment under subsection (a), (b), or (c) of section 112 for a fiscal year may be used to pay for administrative costs incurred by—

“(1) the original recipient; or

“(2) the entity carrying out the service-learning programs supported with the assistance.

“(b) **RULES ON USE.**—The Chief Executive Officer may by rule prescribe the manner and extent to which—

“(1) such assistance may be used to cover administrative costs; and

“(2) that portion of the assistance available to cover administrative costs shall be distributed between—

“(A) the original recipient; and

“(B) the entity carrying out the service-learning programs supported with the assistance.

**“Subpart B—Community Corps Demonstration Program****“SEC. 118. DEMONSTRATION PROGRAM.**

“(a) **IN GENERAL.**—The Corporation, after consultation with the Secretary of Education, shall establish and carry out a Community Corps Demonstration Program.

“(b) **GRANT PROGRAM AUTHORIZED.**—In carrying out the program, the Corporation shall make grants on a competitive basis to eligible entities, for planning, implementing, operating, or expanding school-based service-learning programs, operated in partnership with nonprofit organizations or educational agencies, that—

“(1) require all students, as a condition of secondary school graduation, to complete a substantial service experience; and

“(2) provide high-quality opportunities to meet such requirement through—

“(A) 1 or more mandatory service-learning courses in an academic curriculum;

“(B) service-learning programs that—

“(i) require students to perform service after school, on weekends, or during summer vacations; and

“(ii) utilize appropriately trained adults to identify service opportunities for students within the community involved, to disseminate information about such opportunities, and to ensure that students have substantial

structured opportunities for reflection on their service experiences;

“(C) service-learning programs that enroll students in teams or corps after school, on weekends, or during summer vacations; or

“(D) other types of service-learning programs approved by the Corporation.

“(c) **APPLICATIONS.**—To be eligible to receive a grant under this section, an entity shall prepare, submit to the Corporation, and obtain approval of, an application at such time and in such manner as the Corporation may reasonably require. Such application shall include a 5-year strategic plan for developing high-quality opportunities of the type specified in subsection (b).

“(d) **ELIGIBLE ENTITY.**—To be eligible to receive a grant under this section, an entity shall be—

“(1) a State, acting through the State educational agency;

“(2) an Indian tribe;

“(3) a local educational agency; or

“(4) a nonprofit organization meeting such requirements as the Corporation may specify, acting in partnership with 1 or more States, Indian tribes, or local educational agencies.

“(e) **PRIORITIES.**—In awarding grants under this section, the Secretary shall give priority to applicants with programs that—

“(1) meet unmet human, educational, environmental, or public safety needs;

“(2) foster an ethic of civic responsibility, personal character development, and leadership skills;

“(3) serve jurisdictions or portions of jurisdictions having a high percentage of low-income families; or

“(4) meet such other criteria as the Corporation may by regulation specify.

“(f) **REPORT.**—Not later than 2 years after the date of enactment of the Call to Service Act, the Corporation shall submit a report to Congress regarding the degree to which programs carried out under this section have succeeded in meeting the goals specified in paragraphs (1) and (2) of subsection (e).

“(g) **FUNDING.**—From funds appropriated to carry out this part for fiscal years 2003 through 2007, the Corporation shall reserve not less than \$12,000,000 for each fiscal year to carry out this section.”.

**SEC. 1202. HIGHER EDUCATION PROVISIONS.**

Section 119 (42 U.S.C. 12561) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) **FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.**—

“(1) **FEDERAL SHARE.**—

“(A) **IN GENERAL.**—The Federal share of the cost described in subsection (b) may not exceed 50 percent.

“(B) **NON-FEDERAL CONTRIBUTION.**—In providing for the remaining share of the cost, each recipient of a grant or contract under this part—

“(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

“(ii) may provide for such share through State sources or local sources.

“(2) **WAIVER.**—The Chief Executive Officer may waive the requirements of paragraph (1) in whole or in part with respect to any such program for any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.”; and

(2) by striking subsections (e) through (g) and inserting the following:

“(e) **FEDERAL WORK-STUDY.**—To be eligible for assistance under this part, an institution of higher education shall demonstrate that the institution meets the minimum requirements under section 443(b)(2)(B) of the High-

er Education Act of 1965 (42 U.S.C. 2753(b)(2)(B)) relating to the participation in community service activities of students participating in work-study programs, or has received a waiver of those requirements from the Secretary of Education.

“(f) **PRIORITY.**—In making grants and entering into contracts under subsection (b), the Corporation—

“(1) shall give priority to an applicant that submits an application containing a proposal that—

“(A) demonstrates the commitment of the institution of higher education involved, other than by demonstrating the commitment of the students, to supporting the community service projects carried out through the program;

“(B) specifies the manner in which the institution will promote faculty, administration, and staff participation in the community service projects;

“(C) specifies the manner in which the institution will provide service to the community through organized programs, including, where appropriate, clinical programs for students in professional schools;

“(D) describes any partnership that will participate in the community service projects, such as a partnership comprised of—

“(i) the institution;

“(ii) (I) a community-based agency;

“(II) a local government agency; or

“(III) a nonprofit entity that serves or involves school-age youth or older adults; and

“(iii) a student organization;

“(E) demonstrates community involvement in the development of the proposal;

“(F) describes research designed to identify best practices and other methods to improve service-learning;

“(G) specifies that the institution will use the assistance made available through such a grant or contract to strengthen the service infrastructure in institutions of higher education; or

“(H) with respect to a project involving delivery of services, specifies a project that involves leadership development of school-age youth;

“(2) shall give priority to an institution or partnership that can demonstrate a commitment to community service through measures such as—

“(A) carrying out ongoing community service projects involving students or faculty;

“(B) exceeding the requirements of section 443(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 2753(b)(2)(B)) relating to the percentage of certain work-study funds used for community service; or

“(C) carrying out integrated service-learning programs or training teachers and community leaders in service-learning; and

“(3) shall, to the extent practicable, give special consideration to applicants who are historically Black colleges or universities, Hispanic-serving institutions, and tribally controlled colleges or universities.

“(g) **DEFINITIONS.**—In this part:

“(1) **HISPANIC-SERVING INSTITUTION.**—The term ‘Hispanic-serving institution’ has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

“(2) **HISTORICALLY BLACK COLLEGE OR UNIVERSITY.**—The term ‘historically Black college or university’ means a part B institution, as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

“(3) **STUDENT.**—Notwithstanding section 101, the term ‘student’ means an individual who is enrolled in an institution of higher education on a full- or part-time basis.

“(4) TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY.—The term ‘tribally controlled college or university’ has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).”.

**SEC. 1203. COMMUNITY-BASED PROGRAMS, TRAINING, AND OTHER INITIATIVES.**

Subtitle B of title I (42 U.S.C. 12521 et seq.) is amended by adding at the end the following:

**“PART III—COMMUNITY-BASED PROGRAMS, TRAINING, AND OTHER INITIATIVES**

**“SEC. 120. COMMUNITY-BASED PROGRAMS, TRAINING, AND OTHER INITIATIVES.**

“(a) IN GENERAL.—From the funds appropriated to carry out this part for a fiscal year, the Corporation may make grants to, or enter into contracts or cooperative agreements with, eligible entities.

“(b) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this part, an entity shall be—

“(1) a public or private nonprofit organization, a State educational agency, a State Commission, or an institution of higher education; or

“(2) a consortium of entities described in paragraph (1).

“(c) AUTHORIZED ACTIVITIES.—An entity that receives assistance under this part may use the assistance to—

“(1) conduct community-based programs that provide for meaningful human, educational, environmental, or public safety service by school-age youth;

“(2) provide training or technical assistance to support service-learning;

“(3) involve students in emergency preparedness and homeland security activities;

“(4) promote the recognition of students who perform outstanding community service and schools that have implemented outstanding service-learning programs; and

“(5) carry out demonstration programs, research, and evaluation related to service-learning.

“(d) LIMITATION ON FEDERAL SHARE OF COMMUNITY-BASED ACTIVITY COSTS.—

“(1) FEDERAL SHARE.—

“(A) IN GENERAL.—Except as provided in paragraph (3), the Federal share of the cost of carrying out an activity for which a grant is made, or a contract or cooperative agreement is entered into, under this part may not exceed 50 percent of the total cost of carrying out the program.

“(B) NON-FEDERAL CONTRIBUTION.—In providing for the remaining share of the cost of carrying out such an activity, each recipient of assistance under this part—

“(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

“(ii) may provide for such share through State sources or local sources.

“(2) WAIVER.—The Chief Executive Officer may waive the requirements of paragraph (1) in whole or in part with respect to any such program for any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

“(3) EXEMPTION.—The requirements of paragraph (1) shall not apply to an entity that receives a grant or enters into a contract or cooperative agreement to provide training or technical assistance, promote recognition, or carry out demonstration programs, research, or evaluation under this part.”.

**SEC. 1204. SERVICE-LEARNING CLEARINGHOUSE.**

Subtitle B of title I (42 U.S.C. 12521 et seq.), as amended by section 1203, is further amended by adding at the end the following:

**“PART IV—CLEARINGHOUSE**

**“SEC. 120A. SERVICE-LEARNING CLEARINGHOUSE.**

“(a) IN GENERAL.—The Corporation shall provide financial assistance, from funds appropriated under section 501(a)(2) to carry out subtitle H, to organizations described in subsection (b) to establish a clearinghouse, which shall carry out activities, either directly or by arrangement with another such organization, with respect to information about service-learning.

“(b) PUBLIC OR PRIVATE NONPROFIT ORGANIZATIONS.—Public or private nonprofit organizations that have extensive experience with service-learning, including use of adult volunteers to foster service-learning, shall be eligible to receive assistance under subsection (a).

“(c) FUNCTION OF CLEARINGHOUSE.—An organization that receives assistance under subsection (a) may—

“(1) assist entities carrying out State or local service-learning programs with needs assessments and planning;

“(2) conduct research and evaluations concerning service-learning;

“(3)(A) provide leadership development and training to State and local service-learning program administrators, supervisors, service sponsors, and participants; and

“(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

“(4) facilitate communication among entities carrying out service-learning programs and participants in such programs;

“(5) provide information, curriculum materials, and technical assistance relating to planning and operation of service-learning programs, to States and local entities eligible to receive financial assistance under this title;

“(6) provide information regarding methods to make service-learning programs accessible to individuals with disabilities;

“(7)(A) gather and disseminate information on successful service-learning programs, components of such successful programs, innovative youth skills curricula related to service-learning, and service-learning projects; and

“(B) coordinate the activities of the clearinghouse established in accordance with subsection (a) with appropriate entities to avoid duplication of effort;

“(8) make recommendations to State and local entities on quality controls to improve the quality of service-learning programs;

“(9) assist organizations in recruiting, screening, and placing service-learning coordinators; and

“(10) carry out such other activities as the Chief Executive Officer determines to be appropriate.”.

**Subtitle C—National Service Trust Program**

**SEC. 1301. PROHIBITION ON GRANTS TO FEDERAL AGENCIES; LIMITS ON CORPORATION COSTS.**

Section 121 (42 U.S.C. 12571) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting “RESTRICTIONS ON” before “AGREEMENTS WITH FEDERAL AGENCIES”; and

(B) in paragraph (1)—

(i) in the first sentence, by striking “by the agency,” and inserting “by the agency, including programs of the Public Lands Corps and Urban Youth Corps as described in section 122(a)(2).”; and

(ii) by striking the second sentence;

(C) by striking paragraph (2) and inserting the following:

“(2) PROHIBITION ON GRANTS.—The Corporation may not provide a grant under this section to a Federal agency.”; and

(D) in paragraph (3)—

(i) by striking “receiving assistance under this subsection” and inserting “operating a national service program under such a contract or agreement”; and

(ii) by striking “using such assistance” and inserting “under the contract or agreement”;

(2) in subsection (c), in the matter preceding paragraph (1), by striking “assistance under subsections (a) and (b)” and inserting “assistance under subsection (a)”; and

(3) in subsection (d)—

(A) in paragraph (1), by striking “or (b)”; and

(B) in paragraph (2)(A), by striking “or (b)”.

**SEC. 1302. E-CORPS AND TECHNICAL AMENDMENTS TO TYPES OF PROGRAMS.**

Section 122 (42 U.S.C. 12572) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “and each Federal agency receiving assistance under section 121(b)”; and

(B) in paragraph (9), by striking “between the ages of 16 and 24 years of age” and inserting “age 16 through 25”; and

(C) by redesignating paragraph (15) as paragraph (19); and

(D) by inserting after paragraph (14) the following:

“(15) An E-Corps program that involves participants who provide service in a community by developing and assisting in carrying out technology programs.

“(16) A program that engages citizens in public safety, public health, homeland security, and disaster relief and preparedness activities.

“(17) A program (including an initiative or a partnership program) that seeks to expand the number of young people with mentors, either through provision of direct mentoring services or through activities that build the capacity of mentoring organizations to serve more young people.

“(18) A community service program that—

“(A) enables secondary school students to carry out service activities in their communities during the summer or throughout the year;

“(B) may be a residential program;

“(C) is administered by a political subdivision of a State, a secondary school, an institution of higher education, a community-based agency, or a faith-based organization; and

“(D) is carried out in a low-income rural or urban area.”;

(2) in subsection (c)(1)—

(A) in subparagraph (A)—

(i) by striking “after reviewing the strategic plan approved under section 192A(g)(1)” and inserting “after reviewing the strategic plan approved under section 192A(g)(2)”; and

(ii) by striking “subsection (b) or (d) of”; and

(B) in subparagraph (B), by striking “section 129(a)(1)” and inserting “section 129(f)”; and

(3) by adding at the end the following:

“(d) HIGH SCHOOL DEGREE REQUIRED FOR TUTORS.—The Corporation shall require that recipients of assistance under this subtitle or subtitle A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) to operate tutoring programs involving elementary school or secondary school students shall certify that each individual serving in an approved national service position as a tutor in such a program has obtained a high school diploma or its recognized equivalent, or is enrolled in a program leading to obtaining a high school diploma.

“(e) LITERACY PROGRAMS.—

“(1) PROGRAMS.—Literacy programs that receive assistance under this subtitle or subtitle A of title I of the Domestic Volunteer

Service Act of 1973 shall be based on scientifically based reading research and provide instruction based on the essential components of reading instruction as defined in section 1208 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368).

“(2) TRAINING REQUIRED FOR READING TUTORS.—The Corporation shall require that recipients of assistance under this subtitle or subtitle A of title I of the Domestic Volunteer Service Act of 1973 to operate tutoring in reading programs shall provide training to participants serving in approved national service positions as tutors in such programs that incorporates the recommendations of the National Reading Panel.

“(f) CITIZENSHIP TRAINING.—The Corporation shall establish requirements, after consultation with State Commissions, for recipients of assistance under this subtitle or subtitle A of title I of the Domestic Volunteer Service Act of 1973 that—

“(1) relate to the promotion of citizenship and civic engagement among individuals serving in approved national service positions; and

“(2) are consistent with the principles on which citizenship programs administered by the Immigration and Naturalization Service are based.

“(g) OATH.—Any oath given under this subtitle shall be consistent with the principles of the Federal oath of office as provided in section 3331 of title 5, United States Code.

“(h) CONSULTATION.—The Corporation shall consult with the Secretary of Homeland Security to determine ways of promoting homeland security, including providing disaster relief and preparedness activities, and promoting public health and public safety, through national service programs carried out under this subtitle.”.

#### SEC. 1303. TYPES OF POSITIONS.

Section 123 (42 U.S.C. 12573) is amended—

(1) in paragraph (1), by striking “subsection (a) or (b) of section 121” and inserting “section 121(a)”;

(2) in paragraph (2)(A), by striking “an institution of higher education, or a Federal agency” and inserting “or an institution of higher education”; and

(3) in paragraph (5), by inserting “National” before “Civilian Community Corps”.

#### SEC. 1304. TRAINING AND TECHNICAL ASSISTANCE.

Section 125 (42 U.S.C. 12575) is amended by adding at the end the following:

“(c) UNDERSERVED AREAS AND POPULATIONS.—In complying with the requirements of this section, the Corporation shall ensure that the training and technical assistance needs of programs that focus on and provide service opportunities for underserved rural and urban areas and populations are addressed.”.

#### SEC. 1305. ASSISTANCE TO STATE COMMISSIONS; CHALLENGE GRANTS.

Section 126 (42 U.S.C. 12576) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “between \$125,000 and \$750,000” and inserting “not less than \$200,000 and not more than \$1,000,000”; and

(B) by striking paragraph (2) and inserting the following:

“(2) MATCHING REQUIREMENT.—In making a grant to a State under this subsection, the Corporation shall require the State to provide matching funds in the following amounts:

“(A) FIRST \$100,000.—For the first \$100,000 of the grant amount provided by the Corporation, the State shall not be required to provide matching funds.

“(B) AMOUNTS GREATER THAN \$100,000.—If the grant amount provided by the Corporation is more than \$100,000, for the portion of the

grant amount that is more than \$100,000 and not more than \$200,000, the State shall provide \$1 from non-Federal sources for every \$2 provided by the Corporation through the grant.

“(C) AMOUNTS GREATER THAN \$200,000.—If the grant amount provided by the Corporation is more than \$200,000, for the portion of the grant amount that is more than \$200,000, the State shall provide \$1 from non-Federal sources for every \$1 provided by the Corporation through the grant.

“(D) WAIVER OR ALTERATION OF REQUIREMENTS.—The Corporation may waive or alter the matching fund requirements described in subparagraphs (B) and (C) for a State if the State is under serious budget constraints.”; and

(2) in subsection (c)—

(A) in paragraph (1), by striking “to national service programs that receive assistance under section 121” and inserting “to recipients of assistance for programs supported under section 121 that expand service and volunteering by increasing and strengthening the capacity of community-based agencies (including increasing and strengthening that capacity through the use of regional organizations that facilitate the involvement of small community groups) or by promoting high-quality teaching programs serving low-income students”; and

(B) by striking paragraph (3) and inserting the following:

“(3) AMOUNT OF ASSISTANCE.—

“(A) MATCHING FUNDS.—For a challenge grant made under this subsection, a recipient described in paragraph (1) shall provide (in addition to any amounts required to be provided by the recipient to satisfy other matching funds requirements under this subtitle)—

“(i) for an initial 3-year grant period, not less than \$1 in cash from private sources for every \$1 of Federal funds provided under the grant; and

“(ii) for a subsequent grant period, not less than \$2 in cash from private sources for every \$1 of Federal funds provided under the grant.

“(B) APPLICATION.—The Corporation may permit the use of local or State funds as matching funds under subparagraph (A) if the Corporation determines that such use would be equitable due to a lack of available funds from private sources at the local level.

“(C) LIMIT ON AMOUNT.—The Corporation shall establish a ceiling on the amount of assistance that may be provided to a recipient for a challenge grant made under this subsection.”.

#### SEC. 1306. ALLOCATION OF ASSISTANCE TO STATES AND OTHER ELIGIBLE ENTITIES.

Section 129 (42 U.S.C. 12581) is amended to read as follows:

#### “SEC. 129. PROVISION OF ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

“(a) AMERICORPS POSITIONS.—The Corporation, after consultation with members of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate shall increase, by 25,000 each year, the number of approved national service positions, with priority given to increasing the number of such positions for individuals performing full-time national service. Of the approved national service positions provided for a fiscal year, not more than 30 percent may be positions for which the participants are eligible to receive national service educational awards and no other benefits for service in the positions.

“(b) ONE PERCENT FOR ALLOTMENTS FOR CERTAIN TERRITORIES.—

“(1) IN GENERAL.—Of the funds allocated by the Corporation for provision of assistance

under section 121(a) for a fiscal year, the Corporation shall reserve 1 percent for grants to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. The Corporation may make such a grant from an allotment made under paragraph (2).

“(2) ALLOTMENTS.—The Corporation shall allot to each territory described in paragraph (1) for a fiscal year an amount that bears the same ratio to 1 percent of the allocated funds for that fiscal year as the population of the territory bears to the total population of such territories.

“(c) NOT LESS THAN ONE PERCENT FOR COMPETITIVE GRANTS FOR INDIAN TRIBES.—Of the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall reserve not less than 1 percent for grants to Indian tribes, awarded by the Corporation on a competitive basis in accordance with their respective needs.

“(d) NOT LESS THAN 20 PERCENT FOR NATIONAL GRANTS.—Of the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall reserve not less than 20 percent for grants to nonprofit organizations to operate a program in 2 or more States.

“(e) NOT MORE THAN 33 PERCENT FOR STATE COMPETITIVE GRANTS.—Of the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall reserve not more than 33 percent for grants to States, awarded by the Corporation on a competitive basis for innovative activities.

“(f) 45 PERCENT FOR ALLOTMENTS FOR CERTAIN STATES.—

“(1) GRANTS.—Using the funds allocated by the Corporation for provision of assistance under section 121(a) for a fiscal year, the Corporation shall make a grant, from an allotment made under paragraph (2), to each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“(2) ALLOTMENTS.—The Corporation shall allot to each such State for a fiscal year an amount that bears the same ratio to 45 percent of the allocated funds for that fiscal year as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, subject to paragraph (3).

“(3) MINIMUM AMOUNT.—Notwithstanding paragraph (2), the minimum grant made available to each eligible State under paragraph (1) for each fiscal year shall be not less than \$500,000.

“(g) ADJUSTMENTS.—

“(1) RESERVATION OF FUNDS.—Notwithstanding subsections (e) and (f), the Corporation shall ensure that the Corporation reserves an aggregate amount of funds for allotments to States under subsection (f) for a fiscal year that is not less than the total amount of funds provided to all States described in subsection (f) for allotments under this subtitle for fiscal year 2002.

“(2) FORMULA GRANTS.—In order to meet the requirements of paragraph (1) during a fiscal year for which the aggregate amount of funds for allotments to States under subsection (f) is less than the total amount of funds provided to all States described in subsection (f) for allotments under this subtitle for fiscal year 2002, the Corporation shall reduce the amount available for State competitive grants under subsection (e).

“(h) EFFECT OF FAILURE TO APPLY.—If a State (including a territory described in subsection (b)) fails to apply for, or fails to give notice to the Corporation of its intent to apply for an allotment under subsection (b) or (f), the Corporation may use the amount that would have been allotted under subsection (b) or (f) to the State to—

“(1) make grants (including providing approved national service positions in connection with such grants) under section 121 to other eligible entities that propose to carry out national service programs in the State; and

“(2) make grants under section 121(a) from allotments made in accordance with subsections (b) and (f)(2) to other States with approved applications submitted under section 130.

“(i) APPLICATION REQUIRED.—The Corporation may provide assistance and approved national service positions to a recipient under section 121 only pursuant to an application submitted by a State or other applicant under section 130.

“(j) APPROVAL OF POSITIONS SUBJECT TO AVAILABLE FUNDS.—The Corporation may not approve positions as approved national service positions under this subtitle for a fiscal year in excess of the number of such positions for which the Corporation has sufficient available funds in the National Service Trust for that fiscal year, taking into consideration funding needs for national service educational awards under subtitle D based on completed service. If appropriations are insufficient to provide the maximum allowable number of national service educational awards under subtitle D for all eligible participants, the Corporation is authorized to make necessary and reasonable adjustments to program rules.

“(k) SPONSORSHIP OF APPROVED NATIONAL SERVICE POSITIONS.—

“(1) SPONSORSHIP AUTHORIZED.—The Corporation may enter into an agreement with a person or entity who offers to sponsor national service positions and be responsible for supplying the funds necessary to provide national service educational awards for the positions. The distribution of those approved national service positions shall be made pursuant to the agreement, and the creation of those positions shall not be taken into consideration in determining the number of approved national service positions to be available for distribution under section 121.

“(2) DEPOSIT OF CONTRIBUTION.—Funds provided pursuant to an agreement under paragraph (1) shall be deposited in the National Service Trust established in section 145 until such time as the funds are needed.

“(l) RESERVATION OF FUNDS FOR SPECIAL ASSISTANCE.—From amounts appropriated for a fiscal year pursuant to section 501(a)(2) and subject to the limitations in such section, the Corporation may reserve such amount as the Corporation considers to be appropriate for the purpose of making assistance available under sections 125 and 126.

“(m) RESERVATION OF FUNDS TO INCREASE THE PARTICIPATION OF INDIVIDUALS WITH DISABILITIES.—From amounts appropriated for a fiscal year pursuant to section 501(a)(2) and subject to the limitations in section 501(a)(2)(B), the Corporation shall reserve a portion that is not less than 1 percent of such amounts (except that the portion reserved may not exceed \$10,000,000), for the purpose of making grants under section 121(a) to public or private nonprofit organizations to increase the participation of individuals with disabilities in national service and for demonstration activities in furtherance of this purpose.”

#### SEC. 1307. ADDITIONAL AUTHORITY.

Part II of subtitle C of title I (42 U.S.C. 12581 et seq.) is amended by inserting after section 129 the following:

#### “SEC. 129A. EDUCATION AWARDS PROGRAM.

“(a) IN GENERAL.—From amounts appropriated for a fiscal year pursuant to section 501(a)(2) and consistent with the restriction in subsection (b), the Corporation may provide operational assistance to programs that

receive approved national service positions but do not otherwise receive funds under section 121(a).

“(b) LIMIT ON CORPORATION GRANT FUNDS.—Operational assistance provided under this section may not exceed \$400 per individual enrolled in an approved national service position.

“(c) INAPPLICABLE PROVISIONS.—The following provisions shall not apply to programs that receive operational assistance under this section:

“(1) The limitation on administrative costs under section 121(d).

“(2) The matching funds requirements under sections 121(e) and 140.

“(3) The living allowance and other benefits under sections 131(e) and section 140 (other than individualized support services for disabled members under section 140(f)).”

#### SEC. 1308. STATE SELECTION OF PROGRAMS.

Section 130 (42 U.S.C. 12582) is amended—

(1) in subsection (a), by striking “the national service programs to be carried out using the assistance” and all that follows through “or Federal agency” and inserting “national service programs under this subtitle, an applicant”;

(2) in subsection (b)(11), by striking “receive” and inserting “be eligible to receive”;

(3) in subsection (c)(1), by striking “jobs or”;

(4) in subparagraphs (A) and (B) of subsection (d)(1), by striking “subsection (a) or (b) of section 121” and inserting “section 121(a) (other than operational assistance described in section 129A)”;

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2);

(6) in subsection (f)—

(A) in paragraph (1), by striking “a program applicant” and inserting “an applicant”;

(B) in paragraph (2)—

(i) in the paragraph heading, by striking “PROGRAM APPLICANT” and inserting “APPLICANT”; and

(ii) in the matter preceding subparagraph (A), by striking “program applicant” and inserting “applicant”; and

(C) by striking “institution of higher education, or Federal agency” and inserting “or institution of higher education” each place it appears; and

(7) in subsection (g), by striking the period and inserting “or is already receiving financial assistance from the Corporation.”

#### SEC. 1309. CONSIDERATION OF APPLICATIONS.

Section 133 (42 U.S.C. 12585) is amended—

(1) in subsection (b)(2)(B), by striking “jobs or”;

(2) in subsection (c)—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

“(8) If applicable, as determined by the Corporation, the extent to which the program generates the involvement of volunteers.”;

(3) in subsection (d)—

(A) in paragraph (1), by striking “to be conducted in those urban and rural areas in a State with the highest rates of poverty” and inserting “in urban and rural areas with the highest rates of poverty”;

(B) in paragraph (2)—

(i) in the first sentence, by striking “section 129(d)(2)” and inserting “section 129(d)”;

(ii) by striking subparagraphs (A) and (G);

(iii) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively;

(iv) in subparagraph (D) (as redesignated by clause (iii)), by adding “and” at the end; and

(v) in subparagraph (E) (as redesignated by clause (iii)), by striking “; and” and inserting a period; and

(C) in paragraph (3), by striking “section 129(d)(2)” and inserting “section 129(d)”;

(D) by striking paragraph (4);

(4) in subsection (e), in the matter preceding paragraph (1), by striking “subsections (a) and (d)(1) of section 129” and inserting “subsections (b), (c), (e), and (f) of section 129”; and

(5) in subsection (f)—

(A) in paragraph (1), by striking “section 129(a)(1)” and inserting “section 129(f)”;

(B) in paragraph (3), by striking “section 129(a)” and inserting “section 129(f)”.

#### SEC. 1310. DESCRIPTION OF PARTICIPANTS.

Section 137 (42 U.S.C. 12591) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3);

(B) in paragraph (4), by inserting “or will serve in an approved national service position with a program described in section 122(a)(18)” before the semicolon; and

(C) by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively;

(2) in subsection (b)—

(A) in paragraph (1), by striking “paragraph (4)” and inserting “paragraph (3)”;

(B) in paragraph (2), by striking “between the ages of 16 and 25” and inserting “a 16-year-old out-of-school youth or an individual between the ages of 17 and 25”; and

(3) by striking subsection (c) and inserting the following:

“(c) SELF-CERTIFICATION AND WAIVER.—The Corporation may—

“(1) consider an individual to have satisfied the requirement of subsection (a)(4) if the individual informs the Corporation that such requirement has been satisfied; or

“(2) waive the requirement of subsection (a)(4) with respect to an individual if the program in which the individual seeks to become a participant conducts an independent evaluation demonstrating that the individual is incapable of obtaining a high school diploma or its recognized equivalent.”

#### SEC. 1311. REFERENCE TO FEDERAL AGENCY.

Section 138(a) (42 U.S.C. 12592(a)) is amended by striking “Federal agency.”

#### SEC. 1312. TERMS OF SERVICE.

Section 139 (42 U.S.C. 12593) is amended—

(1) in subsection (a), by striking “full- or part-time”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “not less than 9 months and”;

(B) in paragraph (2), by striking “during a period of—” and all that follows and inserting “during a period of not more than 2 years.”; and

(C) by adding at the end the following:

“(4) SECONDARY SCHOOL COMMUNITY SERVICE.—Notwithstanding paragraphs (1) through (3), an individual performing service in an approved national service position in a program described in section 122(a)(18) shall agree to participate in the program for not less than 300 hours during a period of not more than 1 year.”;

(3) in subsection (c)—

(A) in paragraph (1)(A), by striking “as demonstrated by the participant” and inserting “as determined by the recipient or program, if the participant has otherwise performed satisfactorily and has completed at least 15 percent of the original term of service”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “provide to the participant that portion of the national service educational award” and inserting “certify the participant’s eligibility for that portion of the national service educational award”; and

(ii) in subparagraph (B)—

(I) by striking “to allow return to the program with which the individual was serving in order to”; and

(II) by striking “obtain” and inserting “become eligible for”; and

(C) in paragraph (3), by striking “not receive” and inserting “not be eligible to receive”.

#### SEC. 1313. ADJUSTMENTS TO LIVING ALLOWANCE.

Section 140 (42 U.S.C. 12594) is amended—

(1) in subsection (a), by adding at the end the following:

“(7) OTHER FEDERAL FUNDS.—

“(A) RECIPIENT REPORT.—A recipient of assistance under section 121 that is subject to the limitation on the Federal share of the annual living allowance in paragraph (2) shall report to the Corporation the amount and source of any Federal funds other than those provided by the Corporation used to pay the annual living allowance under paragraph (1).

“(B) CORPORATION REPORT.—The Corporation shall report to Congress on an annual basis information regarding each recipient that uses Federal funds other than those provided by the Corporation to pay the annual living allowance under paragraph (1), including the amounts and sources of the other Federal funds.”; and

(2) by striking subsection (h) and inserting the following:

“(h) STIPENDS FOR SECONDARY SCHOOL COMMUNITY SERVICE PROGRAM.—A recipient of assistance under section 121 to carry out a program described in section 122(a)(18) may provide a stipend, transportation services, and educational support services to each participant in the program, in lieu of benefits described in subsections (a), (d), and (e).”.

#### Subtitle D—National Service Trust and Provision of National Service Educational Awards

#### SEC. 1401. AVAILABILITY OF FUNDS IN THE NATIONAL SERVICE TRUST.

Section 145 (42 U.S.C. 12601) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “and”;

(ii) in subparagraph (B), by adding “and” at the end; and

(iii) by adding at the end the following:

“(C) service-based scholarships for secondary school students, as described in section 149A.”; and

(B) in paragraph (2), by striking “pursuant to section 196(a)(2)” and inserting “pursuant to section 196(a)(2), if the terms of such donations direct that the amounts be deposited in the National Service Trust”;

(2) in subsection (c), by striking “for payments of national service educational awards in accordance with section 148.” and inserting “to pay for—

“(1) national service educational awards in accordance with section 148;

“(2) interest in accordance with section 148(e); and

“(3) the Federal share of service-based scholarships to secondary school students in accordance with section 149A.”; and

(3) in subsection (d)—

(A) in paragraph (3)(B), by striking “and”;

(B) in paragraph (4)—

(i) by striking “awards to” and inserting “awards for”; and

(ii) by striking the period and inserting “; and

(C) by adding at the end the following:

“(5) identify the number of students who have received service-based scholarships to secondary school students in accordance with section 149A, and specify the amount of Federal and matching funds expended on an annual basis on the service-based scholarships.”.

#### SEC. 1402. INDIVIDUALS ELIGIBLE TO RECEIVE A NATIONAL SERVICE EDUCATIONAL AWARD FROM THE TRUST.

Section 146 (42 U.S.C. 12602) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking “receive” and inserting “be eligible to receive”; and

(ii) by striking “if the individual” and inserting “if the organization responsible for the individual’s supervision for a national service program certifies that the individual”;

(B) by striking paragraphs (1), (2), and (3) and inserting the following:

“(1) met the applicable eligibility requirements for the approved national service position in which the individual served;

“(2)(A) successfully completed the required term of service described in subsection (b) in the approved national service position; or

“(B)(i) satisfactorily performed prior to being granted a release for compelling personal circumstances under section 139(c); and

“(ii) completed at least 15 percent of the original required term of service described in subsection (b); and”;

(C) by redesignating paragraph (4) as paragraph (3);

(2) in subsection (b), by striking “full- or part-time”;

(3) by striking subsection (c) and inserting the following:

“(c) LIMITATION ON RECEIPT OF EDUCATIONAL AWARDS.—An individual may be eligible to receive, through national service educational awards made under this subtitle, a total amount that is not more than the aggregate value of 2 national service educational awards made for full-time service.”;

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting “(or a family member of the individual designated in accordance with subsection (g))” after “under this section”; and

(ii) by striking the period and inserting “(or, in the case of an individual who served in a program described in section 122(a)(18), the end of the 5-year period beginning on that date).”; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A)—

(I) by inserting “(or a family member of the individual designated in accordance with subsection (g))” after “an individual”; or

(II) by striking “that the individual—” and inserting “that—”;

(ii) in subparagraph (A)—

(I) by inserting “the individual (or family member)” after “(A)”; and

(II) by inserting “(or 5-year period)” before the semicolon; and

(iii) in subparagraph (C), by inserting “the individual” after “(B)”; and

(5) by adding at the end the following:

“(g) TRANSFERS.—

“(1) DEFINITION.—In this subsection, the term ‘family member’, used with respect to an individual, means a spouse, son, daughter, or grandchild of the individual.

“(2) ABILITY TO TRANSFER.—An individual who is eligible to receive a national service educational award in accordance with this section may designate a family member of the individual to use the award in accordance with section 148. The designated person may submit an application under section 148 for disbursement of the award. On verifying the eligibility of the individual under this section, and determining that the designated person is a family member of the individual and is otherwise eligible to receive the award under this section, the Corporation shall disburse the award on behalf of the designated person in accordance with section 148.”.

#### SEC. 1403. DETERMINATION OF THE AMOUNT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

Section 147(a) is amended—

(1) in subsections (a) and (b), by striking “shall receive” and inserting “shall be eligible to receive”;

(2) in subsection (a), by striking “, for each of not more than 2 of such terms of service” and all that follows and inserting “of \$5,250.”;

(3) in subsection (c)—

(A) by striking “full-time or part-time”; and

(B) by striking “provide the individual with” and inserting “provide for the individual”; and

(4) by adding at the end the following:

“(d) AMOUNT FOR SECONDARY SCHOOL COMMUNITY SERVICE.—Notwithstanding subsections (a), (b), and (c), an individual described in section 146(a) who successfully completes a required term of service described in section 139(b)(4) in an approved national service position in a program described in section 122(a)(18) shall receive a national service educational award having a value, for each of not more than 4 of such terms of service, equal to \$1000.”.

#### SEC. 1404. DISBURSEMENT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

Section 148 (42 U.S.C. 12604) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking “and”;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

“(4) to pay expenses incurred in enrolling in an educational institution or training establishment that meets the requirements of chapter 36 of title 38, United States Code; and”;

(2) in subsection (b)—

(A) in paragraph (2), by striking “has earned” and inserting “is eligible to receive”; and

(B) in paragraph (7)—

(i) in subparagraph (A), by striking “, other than a loan to a parent of a student pursuant to section 428B of such Act (20 U.S.C. 1078-2); and” and inserting a semicolon;

(ii) in subparagraph (B), by striking the period and inserting “; and”; and

(iii) by adding at the end the following:

“(C) any loan (other than a loan described in subparagraph (A) or (B)) determined by an institution of higher education to be necessary to cover a student’s educational expenses and made, insured, or guaranteed—

“(i) by an eligible lender, as defined in section 435 of the Higher Education Act of 1965 (20 U.S.C. 1085);

“(ii) under the direct student loan program under part D of title IV of such Act (20 U.S.C. 1087a et seq.); or

“(iii) by a State agency.”;

(3) in subsection (e), by striking “subsection (b)(6)” and inserting “subsection (b)(7)”;

(4) in subsection (f), by striking “Director” and inserting “Chief Executive Officer”; and

(5) by adding at the end the following:

“(h) RULE.—References in this section to an individual (other than the third and fourth such references in subsection (e)) shall be considered to include references to a family member of the individual designated under section 146(g).”.

#### SEC. 1405. ADDITIONAL USES OF NATIONAL SERVICE TRUST AMOUNTS.

Subtitle D of title I (42 U.S.C. 12601 et seq.) is amended by adding at the end the following:

#### “SEC. 149. USE BY PARTICIPANTS WITH DISABILITIES.

“Notwithstanding any other provision of this subtitle, the Corporation may disburse

from the National Service Trust some or all of a national service educational award directly to an individual (or a family member of the individual designated in accordance with section 146(g)) who provides a certification that—

“(1) the individual (or family member) is—

“(A) entitled to disability insurance benefits under section 223 of the Social Security Act (42 U.S.C. 423);

“(B) entitled to monthly insurance benefits under section 202 of the Social Security Act (42 U.S.C. 402) based on such individual's (or family member's) disability (as defined in section 223(d) of such Act (42 U.S.C. 423(d)); or

“(C) eligible for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) on the basis of blindness (as described in section 1614(a)(2) of such Act (42 U.S.C. 1382c(a)(2)) or disability (as described in section 1614(a)(3) of such Act (42 U.S.C. 1382c(a)(3)); and

“(2) the individual (or family member) will use the disbursed funds to pay for education, training, or work-related activities designed to make the individual (or family member) self-supporting.

**“SEC. 149A. SERVICE-BASED SCHOLARSHIPS TO SECONDARY SCHOOL STUDENTS.**

“(a) PROGRAM AUTHORIZED.—The Corporation may use amounts in the National Service Trust to support a service-based scholarship program to recognize secondary school juniors and seniors who are engaged in outstanding community service and scholarship.

“(b) APPROVED USE OF SCHOLARSHIPS.—In supporting the program, the Corporation may use the amounts to pay for not more than 50 percent of the costs of a scholarship that also receives local funding, to help cover an individual's postsecondary education or job training costs.

“(c) CORPORATION SHARE.—The Corporation's share of an individual's scholarship under the program may not exceed \$500.

**Subtitle E—National Civilian Community Corps**

**SEC. 1501. PURPOSE.**

Section 151 (42 U.S.C. 12611) is amended to read as follows:

**“SEC. 151. PURPOSE.**

“It is the purpose of this subtitle to authorize the operation of, and support for, residential service programs that combine the best practices of civilian service with the best aspects of military service, including leadership and team building, to meet national and community needs, particularly concerns related to national security. The needs to be met under such programs include needs related to natural and other disasters, which shall be addressed through activities coordinated with the Federal Emergency Management Agency and other public and private organizations.”

**SEC. 1502. NATIONAL CIVILIAN COMMUNITY CORPS.**

Subtitle E of title I (42 U.S.C. 12611 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

**“Subtitle E—National Civilian Community Corps”;**

(2) by striking “Civilian Community Corps” each place it appears and inserting “National Civilian Community Corps”;

(3) by striking “CIVILIAN COMMUNITY CORPS” each place it appears and inserting “NATIONAL CIVILIAN COMMUNITY CORPS”; and

(4) in section 155(b) (42 U.S.C. 12615(b)), by striking “CIVILIAN COMMUNITY CORPS” and inserting “NATIONAL CIVILIAN COMMUNITY CORPS”.

**SEC. 1503. PROGRAM COMPONENTS.**

Section 152 (42 U.S.C. 12612) is amended—

(1) in the section heading, by striking “**DEMONSTRATION**”;

(2) in subsections (a) and (b), by striking “Demonstration”; and

(3) in subsection (c), in the subsection heading, by striking “PROGRAMS” and inserting “COMPONENTS”.

**SEC. 1504. ELIGIBLE PARTICIPANTS.**

Section 153 (42 U.S.C. 12613) is amended—

(1) in subsection (a), by striking “Demonstration”;

(2) in subsection (b), by striking “if the person” and all that follows and inserting “if the person will be at least age 18 by December 31 of the calendar year in which the individual enrolls in the program.”;

(3) in subsection (c), in the subsection heading, by striking “BACKGROUNDS” and inserting “BACKGROUND”;

(4) by striking subsection (e).

**SEC. 1505. SUMMER NATIONAL SERVICE PROGRAM.**

Section 154(a) (42 U.S.C. 12614(a)) is amended by striking “Demonstration”.

**SEC. 1506. TEAM LEADERS.**

Section 155 (42 U.S.C. 12615) is amended—

(1) in subsection (a), by striking “Demonstration”; and

(2) in subsection (b), by adding at the end the following:

“(4) TEAM LEADERS.—The Director may select from Corps members individuals with prior supervisory or service experience, to be team leaders within units in the National Civilian Community Corps and to perform service that includes leading and supervising teams of Corps members. Team leaders shall—

“(A) be members of the National Civilian Community Corps; and

“(B) be provided the rights and benefits applicable to Corps members, except that the amount of the living allowance provided to a team leader under section 158(b) shall be not more than 10 percent greater than the amount established under section 158(b).”

**SEC. 1507. CONSULTATION WITH STATE COMMISSIONS.**

Section 157 (42 U.S.C. 12617) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), by inserting “community-based agencies and” before “representatives of local communities”; and

(B) in paragraph (2), by inserting “State commissions,” before “and persons involved in other youth service programs.”;

(2) in subsection (c), by adding at the end the following:

“(3) DISASTER ASSISTANCE.—In selecting the projects, the Director shall place appropriate emphasis on projects in support of disaster relief efforts.”

**SEC. 1508. PERMANENT CADRE.**

Section 159(a) (42 U.S.C. 12619(a)) is amended by striking “Demonstration”.

**SEC. 1509. CONTRACT AND GRANT AUTHORITY.**

Section 161(a) (42 U.S.C. 12621(a)) is amended by striking “perform any program function under this subtitle” and inserting “carry out the National Civilian Community Corps program”.

**SEC. 1510. OTHER DEPARTMENTS.**

Section 162(a)(2)(A) (42 U.S.C. 12622(a)(2)(A)) is amended—

(1) by striking “to be recommended for appointment” and inserting “from which individuals may be selected for appointment by the Director”; and

(2) by striking “members and former members of the Armed Forces referred to in section 151(3) who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers.” and inserting “individuals who are—

“(i) (I) members and former members of the Armed Forces who are entitled or, except for

not having attained the minimum age required under section 12731(a) of title 10, United States Code, would be entitled to retired or retainer pay payable out of the Department of Defense Military Retirement Fund under section 1463 of such title or to retired pay referred to in subsection (a)(2) of such section 1463 that is payable by the Secretary of Homeland Security;

“(II) former members of the Armed Forces who were discharged from the Armed Forces or released from active duty during a period of a reduction in size of the Armed Forces;

“(III) former members of the Armed Forces who were discharged, and members of the Armed Forces who have been transferred, from the Selected Reserve of the Ready Reserve during a period of a reduction in size of the Armed Forces; or

“(IV) other members of the Armed Forces not on active duty and not actively participating in a reserve component of the Armed Forces; and

“(ii) commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers of the Armed Forces.”.

**SEC. 1511. REPEAL OF AUTHORITY FOR ADVISORY BOARD AND FUNDING LIMITATION.**

Sections 163 and 165 (42 U.S.C. 12623 and 12625) are repealed.

**SEC. 1512. DEFINITIONS.**

Section 166 (42 U.S.C. 12626) is amended—

(1) by striking paragraphs (3) and (9);

(2) by redesignating paragraphs (2), and (4) through (8), as paragraphs (4) through (9) respectively;

(3) by inserting after paragraph (1) the following:

“(2) CAMPUS.—The term ‘campus’ means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

“(3) CAMPUS DIRECTOR.—The term ‘campus director’, with respect to a campus, means the head of the campus under section 155(d).”; and

(4) in paragraphs (4), (5), and (8) (as redesignated by paragraph (2)), by striking “Demonstration” each place it appears.

**SEC. 1513. TERMINOLOGY.**

Subtitle E of title I (42 U.S.C. 12611 et seq.) is amended—

(1)(A) in section 155 (42 U.S.C. 12615)—

(i) in subsection (d)(2), in the paragraph heading, by striking “CAMP SUPERINTENDENT” and inserting “CAMPUS DIRECTOR”; and

(ii) in subsection (f)—

(I) in paragraph (2)(A), by striking “superintendent's” and inserting “director's”; and

(II) in paragraph (3), by striking “camp superintendent” and inserting “campus director”;

(B) in section 157(c)(2) (42 U.S.C. 12617(c)(2)), by striking “camp superintendents” and inserting “campus directors”; and

(C) except as provided in subparagraphs (A) and (B), by striking “superintendent” each place it appears and inserting “campus director”; and

(2)(A) by striking “Corps camp” each place it appears and inserting “campus”;

(B) by striking “camp” each place it appears and inserting “campus”;

(C) by striking “camps” each place it appears and inserting “campuses”; and

(D) in section 155 (42 U.S.C. 12615)—

(i) in subsections (d) and (e), in the subsection headings, by striking “CAMPS” and inserting “CAMPUSES”; and

(ii) in subsection (d)—

(I) in paragraph (1), in the paragraph heading, by striking “CAMPS” and inserting “CAMPUSES”; and

(II) in paragraph (3), in the paragraph heading, by striking "CAMP" and inserting "CAMPUS".

#### Subtitle F—Administrative Provisions

##### SEC. 1601. FAMILY AND MEDICAL LEAVE.

Section 171 (42 U.S.C. 12631) is amended—

(1) in subsection (a)(1), by striking "with respect to a project" and inserting "with respect to a project authorized under subtitle C, or part A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.)";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(3) by inserting after subsection (a) the following:

"(b) SERVICE SPONSORS.—Participants or volunteers in a project authorized under subtitle C, or title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5000 et seq.), shall not be considered to be employees for purposes of determining whether a service sponsor is an employer under subsection (a)(2)."

##### SEC. 1602. ADDITIONAL PROHIBITIONS ON USE OF FUNDS.

Section 174 (42 U.S.C. 12634) is amended by adding at the end the following:

"(d) SEX EDUCATION PROGRAMS.—No assistance made available under the national service laws shall be used—

"(1) to develop or distribute materials or operate programs or courses of instruction, directed at youth, that are designed to promote or encourage sexual activity;

"(2) to distribute or aid in the distribution by any organization of obscene materials to minors on school grounds;

"(3) to provide in schools—

"(A) sex education, unless such education is age appropriate and includes discussion of the health benefits of abstinence; and

"(B) HIV-prevention instruction, unless such instruction is age appropriate, includes discussion of the health benefits of abstinence, and includes discussion of the health risks of the human papillomavirus, consistent with the provisions of section 317P(c) of the Public Health Service Act (42 U.S.C. 247b-17(c)); or

"(4) to operate a program of contraceptive distribution in schools."

##### SEC. 1603. NOTICE, HEARING, AND GRIEVANCE PROCEDURES.

Section 176 (42 U.S.C. 12636) is amended—

(1) by striking "this title" each place it appears and inserting "the national service laws";

(2) in subsection (a)(2)(A), by striking "30 days" and inserting "1 or more periods of 30 days, but not more than a total of 90 days"; and

(3) in subsection (f)—

(i) in paragraph (1), by striking "A State or local applicant" and inserting "An entity"; and

(b) in paragraph (6)—

(i) in subparagraph (C), by striking "and";

(ii) by redesignating subparagraph (D) as subparagraph (E); and

(iii) by inserting after subparagraph (C) the following:

"(D) for a grievance filed by an individual applicant or participant—

"(i) the applicant's selection or the participant's reinstatement, as the case may be; and

"(ii) other changes in the terms and conditions of the service involved; and"

##### SEC. 1604. RESOLUTION OF DISPLACEMENT COMPLAINTS.

Section 177 (42 U.S.C. 12637) is amended—

(1) in subsections (a) and (b), by striking "under this title" each place it appears and inserting "under the national service laws"; and

(2) by striking subsection (e) and inserting the following:

"(e) STANDARDS OF CONDUCT.—

"(1) IN GENERAL.—Programs that receive assistance under the national service laws shall establish and stringently enforce standards of conduct at the program sites to promote proper moral and disciplinary conditions, and shall consult with the parents or legal guardians of children in developing and operating programs that include children as participants and serve children.

"(2) PARENTAL PERMISSION.—A program that receives assistance under the national service laws shall, consistent with State law, before transporting a minor child, provide the reason for the transportation to, and obtain written permission from, the child's parents."

##### SEC. 1605. STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

Section 178 (42 U.S.C. 12638) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by adding at the end the following:

"(J) A representative of the volunteer sector"; and

(B) in paragraph (3), by striking "unless the State permits the representative to serve as a voting member of the State Commission or alternative administrative entity";

(2) in subsection (d)(6)(B), by striking "section 193A(b)(11)" and inserting "section 193A(b)(10)";

(3) by striking subsection (e)(1) and inserting the following:

"(1) Preparation of a national service plan that—

"(A)(i) is developed through an open and public process (such as through regional forums, hearings, and other means) that provides for maximum participation and input from nonprofit organizations and public agencies; and

"(ii) uses service and volunteerism as strategies to meet critical community needs, including service through programs funded under the national service laws;

"(B) covers a 3-year period, the beginning of which may be set by the State;

"(C) is subject to approval by the Chief Executive Officer;

"(D) includes measurable goals and outcomes, including performance measures established under section 186;

"(E) ensures outreach to community and religious organizations, including such organizations that serve underrepresented populations;

"(F) provides for the effective coordination of funding applications submitted by the State, and others within the State, under the national service laws; and

"(G) identifies potential changes in practices and policies that would improve the coordination and effectiveness of Federal, State, and local resources for service and volunteerism within the State."

(4) by redesignating subsections (f) through (j) as subsections (g) through (k), respectively; and

(5) by inserting after subsection (e) the following:

"(f) RELIEF FROM ADMINISTRATIVE REQUIREMENTS.—Upon approval of a State national service plan prepared under subsection (e)(1), the Chief Executive Officer may waive, or specify alternatives to, administrative requirements (other than requirements of statutory provisions) otherwise applicable to grants made to States under the national service laws, including those requirements identified by a State as impeding the coordination and effectiveness of Federal, State, and local resources for service and volunteerism within the State."

##### SEC. 1606. EVALUATION AND ACCOUNTABILITY.

Section 179 (42 U.S.C. 12639) is amended—

(1) in subsection (a), by striking "to determine—" and all that follows and inserting

"to determine the effectiveness of programs that received assistance under the national service laws in achieving stated goals and the costs associated with each of the programs, and for research and evaluation regarding the role of service and civic engagement as a means of fostering healthy civic organizations.";

(2) in subsection (g)—

(A) in paragraph (3), by striking "National Senior Volunteer Corps" and inserting "National Senior Service Corps"; and

(B) in paragraph (9), by striking "to public service" and all that follows and inserting "to engage in service that benefits the community.";

(3) by adding at the end the following:

"(j) RESERVED PROGRAM FUNDS FOR ACCOUNTABILITY.—In addition to amounts appropriated under section 501 and made available to carry out this section, the Corporation may reserve up to 1 percent of total program funds appropriated for a fiscal year under the national service laws to support program accountability activities."

##### SEC. 1607. TECHNICAL AMENDMENT.

Section 181 (42 U.S.C. 12641) is amended by striking "Section 414" and inserting "Section 422".

##### SEC. 1608. ADDITIONAL ADMINISTRATIVE PROVISIONS.

Subtitle F of title I (42 U.S.C. 12631 et seq.) is amended by adding at the end the following:

##### "SEC. 185. CONSOLIDATED APPLICATION AND REPORTING REQUIREMENTS.

"To promote efficiency and eliminate duplicative requirements, the Corporation, after consultation with State Commissions and the Director of the National Senior Service Corps may consolidate or modify application procedures and reporting requirements for programs and activities funded under the national service laws.

##### "SEC. 186. ACCOUNTABILITY FOR RESULTS.

"(a) MEASURES.—

"(1) ESTABLISHMENT OF MEASURES.—The Corporation shall establish, after consultation with recipients of assistance under the national service laws, performance measures for each recipient (or subrecipient).

"(2) CONTENT.—The performance measures described in paragraph (1)—

"(A) shall include, for each program carried out with such assistance—

"(i) the number of participants enrolled and completing terms of service;

"(ii) specific performance indicators showing the outcome of the service activity, such as—

"(I) the number of children tutored;

"(II) an indicator of academic gains, related to the degree of beneficiary participation in services provided through the service activity;

"(III) the number of housing units renovated;

"(IV) the number of vaccines administered;

"(V) the number of individuals assisted through disaster preparedness or response activities; or

"(VI) other quantitative and qualitative measures as determined to be appropriate by the recipient or subrecipient, as appropriate, for the program; and

"(iii) a measure of community support;

"(B) may include, for each program—

"(i) an indicator of change in attitude by beneficiaries of the program;

"(ii) the number of volunteers recruited; and

"(iii) the numbers of participants who failed to complete their terms of service; and

"(C) shall include an established level of performance for each measure described in subparagraph (A) or (B).

"(3) SOURCE.—The Corporation may determine whether a recipient (or subrecipient)



has achieved the performance measures described in paragraph (1) on the basis of self-reported data from the recipient (or subrecipient) and independent data collected by the Corporation.

**“(b) PLAN FOR FAILURE TO ACHIEVE PERFORMANCE MEASURES.—**

**“(1) PROGRAMS IN EXISTENCE FOR 3 YEARS OR LONGER.—**A recipient (or subrecipient) of assistance described in subsection (a)(1), for a program carried out under subtitle C that—

**“(A)** has been in existence for not less than 3 years; and

**“(B)** fails to achieve the performance measures described in subsection (a) during fiscal year 2004 or a subsequent fiscal year,

shall submit a corrective plan to the Corporation that addresses the performance measures that the program failed to achieve, with detailed information on how the recipient (or subrecipient) will ensure that the program will achieve the measures.

**“(2) PROGRAMS IN EXISTENCE FOR LESS THAN 3 YEARS.—**A recipient (or subrecipient) of assistance described in subsection (a)(1), for a program carried out under subtitle C that—

**“(A)** has been in existence for less than 3 years; and

**“(B)** fails to achieve the performance measures described in subsection (a) during—

**“(i)** the later of fiscal year 2004 or the first fiscal year in which the program is in existence; or

**“(ii)** a subsequent fiscal year,

shall receive technical assistance from the Corporation to address targeted performance problems relating to the performance measures that the program failed to achieve, and shall provide quarterly reports on the program's progress in achieving the performance measures described in subsection (a) to the appropriate State and the Corporation.

**“(c) MEASURES FOR FAILURE TO ACHIEVE PERFORMANCE MEASURES.—**

**“(1) PROGRAMS IN EXISTENCE FOR 3 YEARS OR LONGER.—**If, after a period for correction approved by the Corporation, a recipient (or subrecipient) described in subsection (b)(1) of assistance described in subsection (a)(1) fails to achieve the performance measures for a program, the Corporation shall—

**“(A)** reduce the annual amount of the assistance for the program to the underperforming recipient (or subrecipient) by not less than 25 percent; or

**“(B)** terminate assistance for the program to the underperforming recipient (or subrecipient), consistent with subsections (a), (b), (c), and (f) of section 176.

**“(2) PROGRAMS IN EXISTENCE FOR LESS THAN 3 YEARS.—**If, after 2 years, a recipient (or subrecipient) described in subsection (b)(2) fails to show progress in achieving the performance measures described in subsection (a) for a program, the Corporation shall make the reduction described in subparagraph (A), or the termination described in subparagraph (B), of paragraph (1).

**“(d) REPORTS TO CONGRESS.—**The Corporation shall submit a report to Congress not later than 2 years after the date of enactment of this section, and annually thereafter, containing information, for the year covered by the report, on the number of—

**“(1)** recipients and subrecipients implementing corrective plans under this section;

**“(2)** recipients and subrecipients for which the Corporation terminates assistance for a program under this section; and

**“(3)** recipients and subrecipients achieving (including exceeding) performance measures under this section.

**“SEC. 187. SUSTAINABILITY.**

**“(a) GOALS.—**To ensure that recipients of assistance under the national service laws are carrying out sustainable projects, the

Corporation, the Corporation, after collaboration with State Commissions and the Director of the National Senior Service Corps and after consultation with recipients of assistance under the national service laws, may set sustainability goals by establishing policies and procedures to—

**“(1)** build the capacity of the projects receiving the assistance to meet community needs;

**“(2)** provide technical assistance to assist the recipients in acquiring non-Federal funds for the projects; and

**“(3)** implement measures to ascertain whether the projects are generating sufficient community support.

**“(b) ENFORCEMENT.—**If a recipient described in subsection (a) does not meet the sustainability goals for a project, the Corporation may suspend or terminate assistance for the project to the recipient, consistent with subsections (a), (b), (c), and (f) of section 176.

**“SEC. 188. CAPACITY BUILDING.**

“Participants in programs supported under the national service laws, including individuals serving in approved national service positions, may engage in activities, including recruiting and managing volunteers, that increase the capacity of organizations that receive assistance under the national service laws to address unmet human, educational, environmental, or public safety needs.

**“SEC. 188A. EXPENSES OF ATTENDING MEETINGS.**

“Notwithstanding section 1345 of title 31, United States Code, funds authorized under the national service laws shall be available for expenses of attendance of meetings that are concerned with the functions or activities for which the funds are appropriated or that will contribute to improved conduct, supervision, or management of those functions or activities.

**“SEC. 188B. GRANT PERIODS.**

“Unless otherwise specifically provided, the Corporation has authority to make a grant, or enter into a contract or cooperative agreement, under the national service laws for a period of 3 years.

**“SEC. 188C. LIMITATION ON PROGRAM GRANT COSTS.**

**“(a) LIMITATION ON GRANT AMOUNTS.—**Except as otherwise provided by this section, the amount of funds approved by the Corporation for a grant to operate a nonresidential program authorized under the national service laws supporting individuals serving in approved national service positions may not exceed \$16,000 per full-time equivalent position.

**“(b) COSTS SUBJECT TO LIMITATION.—**The limitation in subsection (a) applies to the Corporation's share of participant support costs, staff costs, and other costs borne by the recipient or a subrecipient of the funds to operate a program.

**“(c) COSTS NOT SUBJECT TO LIMITATION.—**The limitation in subsection (a) shall not apply to expenses that are not covered by the grant award.

**“(d) ADJUSTMENTS FOR INFLATION.—**The amount specified in subsection (a) shall be increased each year after 2004 for inflation as measured by the Consumer Price Index for All Urban Consumers published by the Secretary of Labor.

**“(e) WAIVER AUTHORITY AND REPORTING REQUIREMENT.—**

**“(1) WAIVER.—**The Chief Executive Officer may waive the requirements of subsections (a) through (d), if necessary to meet the compelling needs of a particular program, such as—

**“(A)** exceptional training needs for a program serving disadvantaged youth;

**“(B)** increased costs relating to the participation of individuals with disabilities; and

**“(C)** start-up costs associated with a first-time recipient of funds for a program described in subsection (a).

**“(2) REPORTS.—**The Chief Executive Officer shall submit reports to Congress annually on all waivers granted under this section, with explanations of the compelling needs justifying such waivers.

**“SEC. 188D. NOTICE REQUIREMENT.**

**“(a) NOTICE.—**The Corporation shall ensure that the following notice is included in all application materials, announcements of grants, contracts, and other agreements, and other materials containing information regarding application for assistance provided under the national service laws: “The Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.) prohibits employers with 15 or more employees from engaging in employment practices that discriminate against an individual on the basis of religion. Under section 702(a) of the Civil Rights Act of 1964, this prohibition generally does not apply to a religious corporation, association, educational institution, or society. However, as a requirement of receiving funding under the national service laws, any such religious entity shall not discriminate on the basis of religion against a new employee who is paid with funds received under the national service laws, pursuant to section 175(c) of the National and Community Service Act of 1990 (42 U.S.C. 12635(c)) and section 417(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5057(c)).”.

**“(b) CONFIRMATION.—**Before providing assistance to a private entity referred to in the notice specified in subsection (a), the Corporation shall ensure that the entity provides written confirmation, separate from any other document required by law or regulation, acknowledging that the entity has read and understands that notice.

**“(c) CONSTRUCTION.—**Subsections (a) and (b) shall not be construed to amend, or supersede or otherwise affect rights, protections, or duties under, any law, other than this Act.

**“SEC. 188E. AUDITS AND REPORTS.**

“The Corporation shall comply with applicable audit and reporting requirements as provided in chapters 5 and 91 of title 31, United States Code (relating to the Office of Management and Budget and government corporations). The Corporation shall report to the Congress any failure to comply with the requirements relating to such audits.

**“SEC. 188F. CONSTRUCTION.**

“An individual participating in service in a program described in section 122(a)(18) shall not be considered to be an employee engaged in employment for purposes of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).”.

**Subtitle G—Corporation for National and Community Service**

**SEC. 1701. TERMS OF OFFICE.**

Section 192 (42 U.S.C. 12651a) is amended—

(1) by striking subsection (c) and inserting the following:

**“(c) TERMS.—**Subject to subsection (e), each appointed member of the Board shall serve for a term of 5 years.”; and

(2) by adding at the end the following:

**“(e) SERVICE UNTIL APPOINTMENT OF SUCCESSOR.—**An appointed member of the Board whose term has expired may continue to serve until the earlier of—

**“(1)** the date on which a successor has taken office; or

**“(2)** the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.”.

**SEC. 1702. BOARD OF DIRECTORS AUTHORITIES AND DUTIES.**

Section 192A(g) (42 U.S.C. 12651b(g)) is amended—

- (1) by striking paragraph (2);
- (2) by redesignating paragraph (1) as paragraph (2);
- (3) by inserting before paragraph (2) (as redesignated by paragraph (2)) the following:
  - “(1) have responsibility for setting overall policy for the Corporation;”;
- (4) in paragraph (5)(B), by striking “the annual strategic plan referred to in paragraph (1), the proposals referred to in paragraphs (2) and (3)” and inserting “the annual strategic plan referred to in paragraph (2), the proposal referred to in paragraph (3)”;
- (5) in paragraph (9), by inserting “and” after “Corporation;”;
- (6) in paragraph (10), by striking “; and” and inserting a period; and
- (7) by striking paragraph (11).

#### SEC. 1703. PEER REVIEWERS.

Section 193A (42 U.S.C. 12651d) is amended—

- (1) in subsection (b)—
  - (A) in paragraph (2)(B), by striking “after receiving and reviewing an approved proposal under section 192A(g)(2),”;
  - (B) in paragraph (8)(B)—
    - (i) in clause (i), by striking “section 192A(g)(1)” and inserting “section 192A(g)(2)”;
    - (ii) in clause (ii), by striking “proposals approved by the Board under paragraph (2) or (3) of section 192A(g)” and inserting “proposal approved by the Board under section 192A(g)(3)”;
  - (C) in paragraph (9)(C), by striking the semicolon and inserting “; and”;
  - (D) by striking paragraph (10); and
  - (E) by redesignating paragraph (11) as paragraph (10);
- (2) in subsection (c)—
  - (A) in paragraph (9), by striking “and” at the end;
  - (B) by redesignating paragraph (10) as paragraph (11); and
  - (C) by inserting after paragraph (9) the following:
    - “(10) obtain the opinions of peer reviewers in evaluating applications to the Corporation for assistance under this title; and”;
  - (3) by striking subsection (f); and
  - (4) by redesignating subsection (g) as subsection (f).

#### SEC. 1704. OFFICERS.

Section 194(d) (42 U.S.C. 12651e(d)) is amended, in the subsection heading, by striking “NATIONAL SENIOR VOLUNTEER CORPS” and inserting “NATIONAL SENIOR SERVICE CORPS”.

#### SEC. 1705. NONVOTING MEMBERS; PERSONAL SERVICES CONTRACTS.

Section 195 (42 U.S.C. 12651f) is amended—

- (1) in subsection (c)(3)—
  - (A) in the paragraph heading, by striking “MEMBER” and inserting “NON-VOTING MEMBER”; and
  - (B) by inserting “non-voting” before “member”; and
- (2) by adding at the end the following:
  - “(g) PERSONAL SERVICES CONTRACTS.—The Corporation may enter into personal services contracts to carry out research, evaluation, and public awareness projects related to the national service laws.”.

#### SEC. 1706. DONATED SERVICES.

Section 196(a) (42 U.S.C. 12651g(a)) is amended—

- (1) in paragraph (1)—
  - (A) by striking subparagraph (A) and inserting the following:
    - “(A) ORGANIZATIONS AND INDIVIDUALS.—Notwithstanding section 1342 of title 31, United States Code, the Corporation may solicit and accept the voluntary services of organizations and individuals (other than participants) to assist the Corporation in carrying out the duties of the Corporation under the national service laws, and may

provide to members of such organizations and such individuals the travel expenses described in section 192A(d).”;

- (B) in subparagraph (B)—
  - (i) in the matter preceding clause (i), by striking “Such a volunteer” and inserting “A person who is a member of an organization, or is an individual, covered by subparagraph (A)”;
  - (ii) in clause (i), by striking “a volunteer under this subtitle” and inserting “such a person”;
  - (iii) in clause (ii), by striking “volunteers under this subtitle” and inserting “such persons”;
  - (iv) in clause (iii), by striking “such a volunteer” and inserting “such a person”; and
- (C) in subparagraph (C)(i), by striking “Such a volunteer” and inserting “Such a person”; and
- (2) by striking paragraph (3).

#### Subtitle H—Investment for Quality and Innovation

#### SEC. 1801. TECHNICAL AMENDMENTS TO SUBTITLE H.

Section 198 (42 U.S.C. 12653) is amended—

- (1) in subsection (a), by striking “subsection (r)” and inserting “subsection (q)”;
- (2) in subsection (e)—
  - (A) in the subsection heading, by striking “IMPROVE ABILITY TO APPLY FOR ASSISTANCE” and inserting “TRAINING AND TECHNICAL ASSISTANCE”; and
  - (B) by striking “and other entities” and all that follows and inserting “and other entities, including those in underserved rural and urban areas, to enable them to apply for funding under one of the national service laws, to conduct high-quality programs, to evaluate such programs, to support efforts to improve the management of nonprofit organizations and community groups, and for other purposes.”;
- (3) in subsection (i)—
  - (A) by striking “conduct a campaign to”;
  - (B) by striking “to promote” and inserting “may promote”;
- (4) by striking subsection (q) and redesignating subsections (r) and (s) as subsections (q) and (r), respectively;
- (5) in subsection (q) (as redesignated by paragraph (4)), in the subsection heading, by striking “ASSISTANCE FOR HEAD START” and inserting “AGREEMENTS CONCERNING FOSTER GRANDPARENT PROGRAMS”; and
- (6) by adding at the end the following:
  - “(s) VOLUNTEER SERVICE TECHNOLOGY PROGRAMS.—The Corporation may make available not more than \$5,000,000 per year to make grants to Internet volunteer recruiting entities, to pay for the Federal share of the cost of programs to assist the entities to locate, promote, and match volunteers with, local service and volunteer organizations. The Federal share of the cost shall be 75 percent. The non-Federal share of the cost shall be provided from State or local sources.”.

“(s) VOLUNTEER SERVICE TECHNOLOGY PROGRAMS.—The Corporation may make available not more than \$5,000,000 per year to make grants to Internet volunteer recruiting entities, to pay for the Federal share of the cost of programs to assist the entities to locate, promote, and match volunteers with, local service and volunteer organizations. The Federal share of the cost shall be 75 percent. The non-Federal share of the cost shall be provided from State or local sources.”.

#### SEC. 1802. CLEARINGHOUSES.

Section 198A(a) (42 U.S.C. 12653a(a)) is amended by striking “section 118” and inserting “section 120A”.

#### SEC. 1803. REPEAL OF SPECIAL DEMONSTRATION PROJECT.

Section 198D (42 U.S.C. 12653d) is repealed.

#### Subtitle I—Additional Authorities

#### SEC. 1901. AMERICA'S PROMISE: THE ALLIANCE FOR YOUTH.

Title I (42 U.S.C. 12511) is amended by adding at the end the following:

#### “Subtitle J—America's Promise: The Alliance for Youth

#### “SEC. 199N. AUTHORITY TO PROVIDE ASSISTANCE.

“(a) IN GENERAL.—Subject to the availability of appropriations, the Corporation

may make a grant to America's Promise: The Alliance for Youth (referred to in this section as the “alliance”) to support its activities relating to mobilizing communities to ensure that young people become productive, responsible adults.

“(b) USE OF FUNDS.—The alliance may use the funds made available through the grant to pay for costs attributable to the development or operation of programs, consistent with the terms of the grant.

“(c) CHIEF EXECUTIVE OFFICER AS EX OFFICIO MEMBER OF BOARD OF DIRECTORS.—The Chief Executive Officer may serve as an ex officio, nonvoting member of the Board of Directors of the alliance.”.

#### Subtitle J—Points of Light Foundation

#### SEC. 1911. PURPOSES.

Section 302 (42 U.S.C. 12661) is amended to read as follows:

#### “SEC. 302. PURPOSES.

“The purposes of this title are—

“(1) to encourage every individual and every institution in the Nation to help solve critical social problems by volunteering time, energies, and services through community and volunteer service projects and initiatives;

“(2) to identify successful and promising community and volunteer service projects and initiatives, and to disseminate information, training, and technical assistance concerning such projects and initiatives to other communities in order to promote and sustain the adoption of the projects and initiatives nationwide;

“(3) to discover and encourage new leaders and develop individuals and institutions that serve as strong examples of a commitment to serving others, and to convince all people in the United States that a successful life includes serving others;

“(4) to encourage and facilitate the development of new volunteer centers in designated communities; and

“(5) to strengthen the aggregate infrastructure of our Nation's volunteer centers in order to maximize recruitment, management, and retention.”.

#### SEC. 1912. BOARD OF DIRECTORS.

Section 303 (42 U.S.C. 12662) is amended—

(1) in subsection (a), by striking “Corporation” and inserting “Corporation for National and Community Service (referred to in this title as the ‘Corporation’)”;

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

“(b) CHIEF EXECUTIVE OFFICER AS EX OFFICIO MEMBER OF BOARD OF DIRECTORS.—The Chief Executive Officer of the Corporation may serve as an ex officio nonvoting member of the Foundation's Board of Directors.”.

#### SEC. 1913. GRANTS TO THE FOUNDATION.

Section 304 (42 U.S.C. 12663) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “a department or agency in the executive branch” and all that follows through “the President—” and inserting “the Corporation—”; and

(2) by adding after subsection (b) the following:

“(c) ENDOWMENT.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, from the funds made available each fiscal year under sections 303 and 501(b), the Foundation may use not more than 25 percent to establish or support an endowment fund, the corpus of which shall remain intact and the interest income from which shall be used to support activities described in this title. The Foundation may invest the corpus and income only in federally insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, mutual funds,

obligations of the United States, or other market instruments and securities, but not in real estate.

“(2) END OF OPERATIONS.—The Chief Executive Officer shall obtain from the Foundation complete and accurate records of Federal funds deposited in an endowment fund established or supported in accordance with paragraph (1). The corpus of such an endowment fund shall revert to the Treasury if the Chief Executive Officer determines that—

“(A) the Foundation has ceased operations; or

“(B) the Foundation is no longer capable of carrying out the activities described in section 302.

“(d) GRANTS TO SUPPORT COMMUNITY-BASED VOLUNTEER CENTERS.—From funds made available under sections 303 and 501(b), the Foundation may make grants to—

“(1) community-based organizations for the purpose of facilitating the development of volunteer centers; and

“(2) community-based volunteer centers to support their ability to recruit, manage, and retain volunteers.”.

#### **Subtitle K—Authorization of Appropriations** **SEC. 1921. AUTHORIZATION.**

Section 501 (42 U.S.C. 12681) is amended to read as follows:

#### **“SEC. 501. AUTHORIZATION OF APPROPRIATIONS.**

“(a) TITLE I.—

“(1) SUBTITLE B.—

“(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitle B of title I, \$55,000,000 for fiscal year 2004, \$58,000,000 for fiscal year 2005, \$61,000,000 for fiscal year 2006, \$65,000,000 for fiscal year 2007, and such sums as may be necessary for fiscal year 2008.

“(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year—

“(i) not more than 50 percent shall be available to provide financial assistance under part I of subtitle B of title I;

“(ii) not more than 25 percent shall be available to provide financial assistance under part II of such subtitle; and

“(iii) not less than 25 percent shall be available to provide financial assistance under part III of such subtitle.

“(2) SUBTITLES C, D, AND H.—

“(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitles C and H of title I, to administer the National Service Trust and provide national service educational awards and service-based scholarships for secondary school students under subtitle D of title I, and to carry out such audits and evaluations as the Chief Executive Officer or the Inspector General of the Corporation may determine to be necessary, \$415,000,000 for fiscal year 2004, and such sums as may be necessary for fiscal years 2005 through 2008.

“(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year, not more than 15 percent shall be made available to provide financial assistance under section 125, under subsections (b) and (c) of section 126, and under subtitle H of title I.

“(C) SUBTITLE C.—Of the amount appropriated under subparagraph (A) for fiscal year 2004, not more than \$315,000,000 shall be made available to provide financial assistance under section 121.

“(3) SUBTITLE E.—There are authorized to be appropriated to operate the Civilian Community Corps and provide financial assistance under subtitle E of title I, \$30,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(4) SUBTITLE J.—There are authorized to be appropriated to provide financial assistance

under subtitle J of title I \$7,500,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(5) ADMINISTRATION.—

“(A) IN GENERAL.—There are authorized to be appropriated for the administration of this Act, including the provision of financial assistance under section 126(a), \$34,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(B) CORPORATION.—Of the amounts appropriated under subparagraph (A) for a fiscal year—

“(i) not more than 60 percent shall be made available to the Corporation for the administration of this Act; and

“(ii) the remainder shall be available to provide financial assistance under section 126(a).

“(b) TITLE III.—There are authorized to be appropriated to carry out title III \$10,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(c) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated under this section shall remain available until expended.”.

#### **TITLE II—AMENDMENTS TO THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973**

##### **SEC. 2001. REFERENCES.**

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision, the reference shall be considered to be made to a provision of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

##### **Subtitle A—National Volunteer Antipoverty Programs**

##### **SEC. 2101. PURPOSE.**

The second sentence of section 2(b) (42 U.S.C. 4950(b)) is amended by striking “local agencies” and inserting “local agencies, expand relationships with, and support for, the efforts of civic, community, and educational organizations.”.

##### **SEC. 2102. PURPOSE OF THE VISTA PROGRAM.**

Section 101 (42 U.S.C. 4951) is amended—

(1) in the second sentence, by striking “afflicted with” and inserting “affected by”; and

(2) in the third sentence, by striking “local level” and all that follows and inserting “local level, to support efforts by local agencies and community organizations to achieve long-term sustainability of projects initiated or expanded under the VISTA program, and to strengthen local agencies and community organizations to carry out the purpose of this part, consistent with the provisions of section 187 of the National and Community Service Act of 1990.”.

##### **SEC. 2103. APPLICATIONS.**

Section 103 (42 U.S.C. 4953) is amended—

(1) in subsection (a)(2)—

(A) by striking “handicapped” and inserting “disabled”; and

(B) by striking “handicaps” and inserting “disabilities”;

(2) in subsection (b)(1), by striking “recruitment and placement procedures” and inserting “recruitment and placement procedures that involve sponsoring organizations and”; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “personnel described in subsection (b)(2)(C)” and inserting “personnel described in subsection (b)(2)(C) and sponsoring organizations”; and

(ii) in subparagraph (F), by striking “National and Community Service Trust Act of 1993” and inserting “National and Commu-

nity Service Act of 1990 (42 U.S.C. 12501 et seq.)”; and

(B) in paragraph (3), by striking “this subsection with those” and inserting “this subsection, and related recruitment and public awareness activities carried out under the national service laws, with the recruitment and public awareness activities”;

(4) in subsection (g), by striking “and has been submitted to the Governor” and all that follows and inserting a period; and

(5) by adding at the end the following:

“(i) The Director may enter into agreements under which public and private non-profit organizations with sufficient financial capacity and size pay for all or a portion of the costs of supporting the service of volunteers under this title, consistent with the provisions of section 187 of the National and Community Service Act of 1990.”.

##### **SEC. 2104. TERMS AND PERIODS OF SERVICE.**

Section 104 (42 U.S.C. 4954) is amended—

(1) by striking subsection (a) and inserting the following:

“(a)(1) Except as provided in paragraphs (2) through (4), volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related problems. To the maximum extent practicable, that requirement for a full-time personal commitment shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during the periods of service, except for authorized periods of leave.

“(2) The Director may exempt volunteers serving under this part for fiscal year 2003 or 2004 from the requirements of paragraph (1), but the requirements shall apply to—

“(A) not less than 75 percent of such volunteers for fiscal year 2003; and

“(B) not less than 50 percent of such volunteers for fiscal year 2004.

“(3) Not later than September 30, 2004, the Comptroller General of the United States shall submit a report to Congress on whether the exemptions permitted under paragraph (2) have had a material and adverse effect on the ability of the VISTA program to combat poverty and poverty-related problems, such as an increased attrition rate among volunteers, and difficulty in recruiting volunteers, to serve under this part.

“(4)(A) Except as provided in subparagraph (B), the Director may exempt volunteers serving under this part for fiscal year 2005 or a subsequent fiscal year from the requirements of paragraph (1), but the requirements shall apply to not less than 25 percent of such volunteers for fiscal year 2005.

“(B) Subparagraph (A) shall not apply if the Comptroller General of the United States determines, in the report described in paragraph (3), that the exemptions permitted under paragraph (2) have had a material and adverse effect on the ability of the VISTA program to combat poverty and poverty-related problems.”;

(2) in subsection (b)(2), by striking “if the Director determines” and all that follows and inserting “if they are enrolled for periods of at least 1,700 hours for service to which the requirements of subsection (a)(1) do not apply.”; and

(3) in subsection (d)—

(A) in the first sentence, by striking “with the terms and conditions of their service.” and inserting “with the terms and conditions of their service or any adverse action, including termination, proposed by the sponsoring organization involved. The procedure shall provide for an appeal to the Director of any proposed termination from service.”; and

(B) in the last sentence, by striking “and the terms and conditions of their service”.

**SEC. 2105. SECTIONS REPEALED.**

Sections 109 and 124 (42 U.S.C. 4959 and 4995) are repealed.

**SEC. 2106. REDESIGNATION.**

Part A of title I (42 U.S.C. 4951 et seq.) is amended by redesignating section 110 as section 109.

**SEC. 2107. UNIVERSITY YEAR FOR VISTA PROGRAM.**

Section 111(b) (42 U.S.C. 4971(b)) is amended in the third sentence by striking "agencies, institutions, and situations" and inserting "agencies and institutions, including civic, community, and educational organizations."

**SEC. 2108. CONFORMING AMENDMENT.**

Section 121 is amended in the second sentence by striking "agencies, institutions, and situations" and inserting "agencies and institutions, including civic, community, and educational organizations."

**Subtitle B—National Senior Service Corps****SEC. 2201. CHANGE IN NAME.**

Title II (42 U.S.C. 5000 et seq.) is amended in the title heading by striking "NATIONAL SENIOR VOLUNTEER CORPS" and inserting "NATIONAL SENIOR SERVICE CORPS".

**SEC. 2202. PURPOSE.**

Section 200 (42 U.S.C. 5000) is amended to read as follows:

**"SEC. 200. STATEMENT OF PURPOSE.**

"It is the purpose of this title to provide—  
 "(1) opportunities for senior service to meet unmet local, State, and national needs in the areas of education, public safety, health and human needs, and the environment;

"(2) for the National Senior Service Corps, comprised of the Retired and Senior Volunteer Program, the Foster Grandparent Program, and the Senior Companion Program, and demonstration and other programs to empower older individuals to contribute to their communities through service, enhance the lives of those who serve and those whom they serve, and provide communities with valuable services;

"(3) opportunities for people 55 years of age or older, through the Retired and Senior Volunteer Program, to share their experiences, abilities, and skills for the betterment of their communities and themselves;

"(4) opportunities for people 55 years of age or older, through the Foster Grandparent Program, to have a positive impact on the lives of children in need;

"(5) opportunities for people 55 years of age or older, through the Senior Companion Program, to provide critical support services and companionship to adults at risk of institutionalization and who are struggling to maintain a dignified independent life; and

"(6) for research, training, demonstration, and other program activities to increase and improve opportunities for seniors to meet unmet needs, including those related to emergency preparedness, public safety, public health, and disaster relief, in their communities."

**SEC. 2203. GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS.**

Section 201 (42 U.S.C. 5001) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "avail themselves of opportunities for volunteer service in their community" and inserting "share their experiences, abilities, and skills for the betterment of their communities and themselves"; and

(B) in paragraph (2), by striking ", and individuals 60 years of age or older will be given priority for enrollment";

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

**SEC. 2204. FOSTER GRANDPARENT PROGRAM GRANTS.**

Section 211 (42 U.S.C. 5011) is amended—

(1) in subsection (a), by striking "low-income persons aged sixty or over" and inserting "low-income and other persons aged 55 or over";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection—" and inserting "may determine—";

(ii) in subparagraph (A), by striking "and";

(iii) in subparagraph (B), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(C) whether it is in the best interests of a child receiving, and of a particular foster grandparent providing, services in such a project, to continue such relationship after the child reaches the age of 21, if such child was receiving such services prior to attaining the age of 21.";

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2);

(D) in paragraph (2) (as redesignated by subparagraph (C) of this section), by striking "paragraphs (1) and (2)" and inserting "paragraph (1)"; and

(E) by adding at the end the following:

"(3) If an assignment of a foster grandparent is suspended or discontinued, the replacement of that foster grandparent shall be determined through the mutual agreement of all parties involved in the provision of services to the child.";

(3) in subsection (d)—

(A) in the first sentence, by striking "low-income persons serving as volunteers under this part, such allowances, stipends, and other support" and inserting "low-income persons and persons eligible under subsection (h) serving as volunteers under this part, such stipends or allowances"; and

(B) by striking the second sentence and all that follows and inserting the following: "Any stipend or allowance provided under this part shall not exceed 75 percent of the minimum wage under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), with the Federal share not to exceed \$2.65 per hour, except that the Director shall adjust the Federal share once prior to December 31, 2008, to account for inflation.";

(4) in subsection (e)(1), by striking "125" and inserting "200";

(5) by striking subsection (f) and inserting the following:

"(f)(1) Subject to the restrictions in paragraph (3), individuals who are not low-income persons may serve as volunteers under this part. The regulations issued by the Director to carry out this part (other than regulations relating to stipends or allowances to individuals authorized by subsections (d) and (h)) shall apply to all volunteers under this part, without regard to whether such volunteers are eligible to receive a stipend or allowance under subsection (d) or (h).  
 "(2) Except as provided under paragraph (1), each recipient of a grant or contract to carry out a project under this part shall give equal treatment to all volunteers who participate in such project, without regard to whether such volunteers are eligible to receive a stipend or allowance under subsection (d) or (h).  
 "(3) An individual who is not a low-income person may not become a volunteer under this part if allowing that individual to become a volunteer under this part would prevent a low-income person from becoming a volunteer under this part or would displace a low-income person from being a volunteer under this part.";

(6) by adding at the end the following:

"(g) The Director may also provide a stipend or allowance in an amount not to exceed 10 percent more than the amount established under subsection (d) to leaders who, on the basis of past experience as volunteers, special skills, and demonstrated leadership abilities, may coordinate activities, including training, and otherwise support the service of volunteers under this part.

"(h) The Director may provide payments under subsection (d) for up to 15 percent of volunteers serving in a project under this part for a fiscal year who do not meet the definition of 'low-income' under subsection (e), upon certification by the recipient of a grant or contract that it is unable to effectively recruit and place low-income volunteers in the number of placements approved for the project."

**SEC. 2205. SENIOR COMPANION PROGRAM GRANTS.**

Section 213 (42 U.S.C. 5013) is amended—

(1) in subsection (a), by striking "low-income persons aged 60 or over" and inserting "low-income and other persons aged 55 or over";

(2) in subsection (b), by striking "Subsections (d), (e), and (f)" and inserting "Subsections (d) through (h)"; and

(3) by striking subsection (c)(2)(B) and inserting the following:

"(B) Senior companion volunteer trainers and leaders may receive a stipend or allowance consistent with subsections (d), (g), and (h) of section 211, as approved by the Director."

**SEC. 2206. TECHNICAL AMENDMENTS.**

(a) NATIONAL SENIOR SERVICE CORPS.—

(1) SECTION 221.—Section 221 (42 U.S.C. 5021) is amended in the heading by striking "VOLUNTEER" and inserting "SERVICE".

(2) SECTION 224.—Section 224 (42 U.S.C. 5024) is amended—

(A) in the heading by striking "VOLUNTEER" and inserting "SERVICE"; and

(B) by striking "Volunteer" and inserting "Service".

(b) CHANGE IN AGE ELIGIBILITY.—Section 223 (42 U.S.C. 5023) is amended by striking "sixty years and older" and inserting "55 years and older".

**SEC. 2207. PROGRAMS OF NATIONAL SIGNIFICANCE.**

Section 225(b) (42 U.S.C. 5025(b)) is amended by adding at the end the following:

"(19) Programs that strengthen community efforts in support of homeland security."

**SEC. 2208. ADDITIONAL PROVISIONS.**

Part D of title II (42 U.S.C. 5021 et seq.) is amended by adding at the end the following:

**"SEC. 228. PARTICIPATION AND INCOME LEVEL.**

"(a) RESTRICTION ON PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in subsection (b), participation in programs and activities under this title shall be open to a senior whose income level does not exceed 200 percent of the poverty line for a single individual.

"(2) DEDUCTION FOR MEDICAL EXPENSES.—For purposes of determining the income level of a senior under paragraph (1), such income level shall be reduced by an amount that is equal to 50 percent of the amount of such senior's medical expenses during the year preceding the year during which the eligibility determination is made.

"(b) WAIVER.—The Corporation may waive the requirement of subsection (a) with respect to not to exceed 15 percent of the participants in programs and activities under this title for each fiscal year.

**"SEC. 229. CONTINUITY OF SERVICE.**

"To ensure the continued service of individuals in communities served by the Retired and Senior Volunteer Program, Foster

Grandparent Program, and Senior Companion Program prior to the date of enactment of this section, in making grants under this title the Corporation shall take actions it considers necessary to maintain service assignments for such seniors and to ensure continuity of service for communities.

**“SEC. 229A. TRAINING AND RESEARCH.**

“From funds appropriated each fiscal year to carry out this title, the Corporation may reserve not more than \$15,000,000 to support research and training designed to improve the effectiveness of programs supported under this title.”.

**Subtitle C—Administration and Coordination**

**SEC. 2301. NONDISPLACEMENT.**

Section 404(a) is amended by striking “displacement of employed workers” and inserting “displacement of employed workers or volunteers (other than participants under the national service laws)”.

**SEC. 2302. DEFINITIONS.**

Section 421 (42 U.S.C. 5061) is amended—

(1) in paragraph (11), by striking “417” and inserting “410”;

(2) in paragraph (13), by striking “National Senior Volunteer Corps” and inserting “National Senior Service Corps”; and

(3) in paragraph (14)—  
(A) by striking “National Senior Volunteer Corps” and inserting “National Senior Service Corps”; and

(B) by striking “parts A, B, C, and E of”.

**SEC. 2303. PROTECTION AGAINST IMPROPER USE.**

Section 425 (42 U.S.C. 5065) is amended by striking “National Senior Volunteer Corps” and inserting “National Senior Service Corps”.

**SEC. 2304. INCOME VERIFICATION.**

Title IV (42 U.S.C. 5043 et seq.) is amended by adding at the end the following:

**“SEC. 426. INCOME VERIFICATION.**

“Each organization that receives assistance under this Act may verify the income eligibility of volunteers based on a confidential declaration of income and with no requirements for verification.”.

**SEC. 2305. SECTIONS REPEALED.**

Sections 412 and 416 (42 U.S.C. 5052 and 5056) are repealed.

**SEC. 2306. REDESIGNATIONS.**

Title IV (42 U.S.C. 5043 et seq.) is amended by redesignating sections 403, 404, 406, 408, 409, 410, 411, 414, 415, 417, 418, 419, 421, 422, 423, 424, 425, and 426 as sections 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, and 418, respectively.

**Subtitle D—Authorization of Appropriations**

**SEC. 2401. AUTHORIZATION OF APPROPRIATIONS FOR VISTA AND OTHER PURPOSES.**

Section 501 (42 U.S.C. 5081) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “, excluding section 109” and all that follows and inserting “\$90,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”;

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively; and

(C) in paragraph (2) (as redesignated by subparagraph (B) of this section), by striking “, excluding section 125” and all that follows and inserting “\$5,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”; and

(2) by striking subsection (e).

**SEC. 2402. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL SENIOR SERVICE CORPS.**

Section 502 (42 U.S.C. 5082) is amended to read as follows:

**“SEC. 502. NATIONAL SENIOR SERVICE CORPS.**

“(a) RETIRED AND SENIOR VOLUNTEER PROGRAM.—There are authorized to be appro-

priated to carry out part A of title II \$58,884,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(b) FOSTER GRANDPARENT PROGRAM.—There are authorized to be appropriated to carry out part B of title II \$110,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(c) SENIOR COMPANION PROGRAM.—There are authorized to be appropriated to carry out part C of title II \$46,563,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

“(d) DEMONSTRATION PROGRAMS.—There are authorized to be appropriated to carry out part E of title II \$400,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”.

**SEC. 2403. ADMINISTRATION AND COORDINATION.**

Section 504 (42 U.S.C. 5084) is amended to read as follows:

**“SEC. 504. ADMINISTRATION AND COORDINATION.**

“There are authorized to be appropriated for the administration of this Act \$33,568,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.”.

**SEC. 2404. REDESIGNATIONS.**

Title V (42 U.S.C. 5081 et seq.) is amended by redesignating sections 504 and 505 as sections 503 and 504, respectively.

**TITLE III—AMENDMENTS TO OTHER LAWS**

**SEC. 3001. INSPECTOR GENERAL ACT OF 1978.**

Section 8F(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “National and Community Service Trust Act of 1993” and inserting “National and Community Service Act of 1990”.

**TITLE IV—TECHNICAL AMENDMENTS TO TABLES OF CONTENTS**

**SEC. 4001. TABLE OF CONTENTS FOR THE NATIONAL AND COMMUNITY SERVICE ACT OF 1990.**

Section 1(b) of the National and Community Service Act of 1990 (42 U.S.C. 12501 note) is amended to read as follows:

“(b) TABLE OF CONTENTS.—The table of contents is as follows:

“Sec. 1. Short title and table of contents.

“Sec. 2. Findings and purpose.

**“TITLE I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM**

**“Subtitle A—General Provisions**

“Sec. 101. Definitions.

**“Subtitle B—School-Based and Community-Based Service-Learning Programs**

**“PART I—PROGRAMS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS**

**“SUBPART A—PROGRAMS FOR STUDENTS**

“Sec. 111. Assistance to States and Indian tribes.

“Sec. 112. Allotments.

“Sec. 113. Applications.

“Sec. 114. Consideration of applications.

“Sec. 115. Federal, State, and local contributions.

“Sec. 116. Limitations on uses of funds.

**“SUBPART B—COMMUNITY CORPS DEMONSTRATION PROGRAM**

“Sec. 118. Demonstration program.

**“PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE**

“Sec. 119. Higher education innovative programs for community service.

**“PART III—COMMUNITY-BASED PROGRAMS, TRAINING, AND OTHER INITIATIVES**

“Sec. 120. Community-based programs, training, and other initiatives.

**“PART IV—CLEARINGHOUSE**

“Sec. 120A. Service-learning clearinghouse.

**“Subtitle C—National Service Trust Program**

**“PART I—INVESTMENT IN NATIONAL SERVICE**

“Sec. 121. Authority to provide assistance and approved national service positions.

“Sec. 122. Types of national service programs eligible for program assistance.

“Sec. 123. Types of national service positions eligible for approval for national service educational awards.

“Sec. 124. Types of program assistance.

“Sec. 125. Training and technical assistance.

“Sec. 126. Other special assistance.

**“PART II—APPLICATION AND APPROVAL PROCESS**

“Sec. 129. Provision of assistance and approved national service positions.

“Sec. 129A. Education awards program.

“Sec. 130. Application for assistance and approved national service positions.

“Sec. 131. National service program assistance requirements.

“Sec. 132. Ineligible service categories.

“Sec. 133. Consideration of applications.

**“PART III—NATIONAL SERVICE PARTICIPANTS**

“Sec. 137. Description of participants.

“Sec. 138. Selection of national service participants.

“Sec. 139. Terms of service.

“Sec. 140. Living allowances for national service participants.

“Sec. 141. National service educational awards.

**“Subtitle D—National Service Trust and Provision of National Service Educational Awards**

“Sec. 145. Establishment of the National Service Trust.

“Sec. 146. Individuals eligible to receive a national service educational award from the Trust.

“Sec. 147. Determination of the amount of the national service educational award.

“Sec. 148. Disbursement of national service educational awards.

“Sec. 149. Use by participants with disabilities.

“Sec. 149A. Service-based scholarships to secondary school students.

**“Subtitle E—National Civilian Community Corps**

“Sec. 151. Purpose.

“Sec. 152. Establishment of National Civilian Community Corps program.

“Sec. 153. National service program.

“Sec. 154. Summer national service program.

“Sec. 155. National Civilian Community Corps.

“Sec. 156. Training.

“Sec. 157. Service projects.

“Sec. 158. Authorized benefits for Corps members.

“Sec. 159. Administrative provisions.

“Sec. 160. Status of Corps members and Corps personnel under Federal law.

“Sec. 161. Contract and grant authority.

“Sec. 162. Responsibilities of other departments.

“Sec. 164. Annual evaluation.

“Sec. 166. Definitions.

**“Subtitle F—Administrative Provisions**

“Sec. 171. Family and medical leave.

“Sec. 172. Reports.

“Sec. 173. Supplementation.

“Sec. 174. Prohibition on use of funds.

“Sec. 175. Nondiscrimination.

“Sec. 176. Notice, hearing, and grievance procedures.

"Sec. 177. Nonduplication and nondisplacement.

"Sec. 178. State Commissions on National and Community Service.

"Sec. 179. Evaluation.

"Sec. 180. Engagement of participants.

"Sec. 181. Contingent extension.

"Sec. 182. Partnerships with schools.

"Sec. 183. Rights of access, examination, and copying.

"Sec. 184. Drug-free workplace requirements.

"Sec. 185. Consolidated application and reporting requirements.

"Sec. 186. Accountability for results.

"Sec. 187. Sustainability.

"Sec. 188. Capacity building.

"Sec. 188A. Expenses of attending meetings.

"Sec. 188B. Grant periods.

"Sec. 188C. Limitation on program grant costs.

"Sec. 188D. Notice requirement.

"Sec. 188E. Audits and reports.

"Subtitle G—Corporation for National and Community Service

"Sec. 191. Corporation for National and Community Service.

"Sec. 192. Board of Directors.

"Sec. 192A. Authorities and duties of the Board of Directors.

"Sec. 193. Chief Executive Officer.

"Sec. 193A. Authorities and duties of the Chief Executive Officer.

"Sec. 194. Officers.

"Sec. 195. Employees, consultants, and other personnel.

"Sec. 196. Administration.

"Sec. 196A. Corporation State offices.

"Subtitle H—Investment for Quality and Innovation

"Sec. 198. Additional Corporation activities to support national service.

"Sec. 198A. Clearinghouses.

"Sec. 198B. Presidential awards for service.

"Sec. 198C. Military installation conversion demonstration programs.

"Subtitle I—American Conservation and Youth Service Corps

"Sec. 199. Short title.

"Sec. 199A. General authority.

"Sec. 199B. Limitation on purchase of capital equipment.

"Sec. 199C. State application.

"Sec. 199D. Focus of programs.

"Sec. 199E. Related programs.

"Sec. 199F. Public lands or Indian lands.

"Sec. 199G. Training and education services.

"Sec. 199H. Preference for certain projects.

"Sec. 199I. Age and citizenship criteria for enrollment.

"Sec. 199J. Use of volunteers.

"Sec. 199K. Living allowance.

"Sec. 199L. Joint programs.

"Sec. 199M. Federal and State employee status.

"Subtitle J—America's Promise: The Alliance for Youth

"Sec. 199N. Authority to provide assistance.

"TITLE II—MODIFICATIONS OF EXISTING PROGRAMS

"Subtitle A—Publication

"Sec. 201. Information for students.

"Sec. 202. Exit counseling for borrowers.

"Sec. 203. Department information on deferments and cancellations.

"Sec. 204. Data on deferments and cancellations.

"Subtitle B—Youthbuild Projects

"Sec. 211. Youthbuild projects.

"Subtitle C—Amendments to Student Literacy Corps

"Sec. 221. Amendments to Student Literacy Corps.

"TITLE III—POINTS OF LIGHT FOUNDATION

"Sec. 301. Short title.

"Sec. 302. Purposes.

"Sec. 303. Authority.

"Sec. 304. Grants to the Foundation.

"Sec. 305. Eligibility of the Foundation for grants.

"TITLE IV—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

"Sec. 401. Projects.

"TITLE V—AUTHORIZATION OF APPROPRIATIONS

"Sec. 501. Authorization of appropriations.

"TITLE VI—MISCELLANEOUS PROVISIONS

"Sec. 601. Amtrak waste disposal.

"Sec. 602. Exchange program with countries in transition from totalitarianism to democracy."

**SEC. 4002. TABLE OF CONTENTS FOR THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973.**

Section 1(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 note) is amended to read as follows:

"(b) TABLE OF CONTENTS.—The table of contents is as follows:

"Sec. 1. Short title; table of contents.

"Sec. 2. Volunteerism policy.

"TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAM

"PART A—VOLUNTEERS IN SERVICE TO AMERICA

"Sec. 101. Statement of purpose.

"Sec. 102. Authority to operate VISTA program.

"Sec. 103. Selection and assignment of volunteers.

"Sec. 104. Terms and periods of service.

"Sec. 105. Support service.

"Sec. 106. Participation of beneficiaries.

"Sec. 107. Participation of younger and older persons.

"Sec. 108. Limitation.

"Sec. 109. Applications for assistance.

"PART B—UNIVERSITY YEAR FOR VISTA

"Sec. 111. Statement of purpose.

"Sec. 112. Authority to operate University Year for VISTA program.

"Sec. 113. Special conditions.

"PART C—SPECIAL VOLUNTEER PROGRAMS

"Sec. 121. Statement of purpose.

"Sec. 122. Authority to establish and operate special volunteer and demonstration programs.

"Sec. 123. Technical and financial assistance.

"TITLE II—NATIONAL SENIOR SERVICE CORPS

"Sec. 200. Statement of purposes.

"PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

"Sec. 201. Grants and contracts for volunteer service projects.

"PART B—FOSTER GRANDPARENT PROGRAM

"Sec. 211. Grants and contracts for volunteer service projects.

"PART C—SENIOR COMPANION PROGRAM

"Sec. 213. Grants and contracts for volunteer service projects.

"PART D—GENERAL PROVISIONS

"Sec. 221. Promotion of National Senior Service Corps.

"Sec. 222. Payments.

"Sec. 223. Minority group participation.

"Sec. 224. Use of locally generated contributions in National Senior Service Corps.

"Sec. 225. Programs of national significance.

"Sec. 226. Adjustments to Federal financial assistance.

"Sec. 227. Multiyear grants or contracts.

"Sec. 228. Participation and income level.

"Sec. 229. Continuity of service.

"Sec. 229A. Training and research.

"PART E—DEMONSTRATION PROGRAMS

"Sec. 231. Authority of Director.

"Sec. 232. Prohibition.

"TITLE IV—ADMINISTRATION AND COORDINATION

"Sec. 401. Political activities.

"Sec. 402. Special limitations.

"Sec. 403. Labor standards.

"Sec. 404. Joint funding.

"Sec. 405. Prohibition of Federal control.

"Sec. 406. Coordination with other programs.

"Sec. 407. Prohibition.

"Sec. 408. Distribution of benefits between rural and urban areas.

"Sec. 409. Application of Federal law.

"Sec. 410. Nondiscrimination provisions.

"Sec. 411. Eligibility for other benefits.

"Sec. 412. Legal expenses.

"Sec. 413. Definitions.

"Sec. 414. Audit.

"Sec. 415. Reduction of paperwork.

"Sec. 416. Review of project renewals.

"Sec. 417. Protection against improper use.

"Sec. 418. Income verification.

"TITLE V—AUTHORIZATION OF APPROPRIATIONS

"Sec. 501. National volunteer antipoverty programs.

"Sec. 502. National Senior Service Corps.

"Sec. 503. Administration and coordination.

"Sec. 504. Availability of appropriations.

"TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

"Sec. 601. Supersession of Reorganization Plan Number 1 of July 1, 1971.

"Sec. 602. Creditable service for civil service retirement.

"Sec. 603. Repeal of title VIII of the Economic Opportunity Act.

"Sec. 604. Repeal of title VI of the Older Americans Act."

**TITLE V—EFFECTIVE DATE AND SENSE OF CONGRESS**

**SEC. 5001. EFFECTIVE DATE.**

Unless specifically provided otherwise, the amendments made by this Act shall take effect on the date of enactment of this Act.

**SEC. 5002. SERVICE ASSIGNMENTS AND AGREEMENTS.**

(a) SERVICE ASSIGNMENTS.—Changes pursuant to this Act in the terms and conditions of terms of service and other service assignments under the national service laws (including the amount of the education award) shall apply only to individuals who enroll or otherwise begin service assignments not earlier than the date that is 90 days after the date of enactment of this Act, except when agreed upon by all interested parties.

(b) AGREEMENTS.—Changes pursuant to this Act in the terms and conditions of grants, contracts, or other agreements under the national service laws shall apply only to such agreements entered into not earlier than the date that is 90 days after the date of enactment of this Act, except when agreed upon by all the parties to such agreements.

**SEC. 5003. SENSE OF CONGRESS.**

It is the sense of Congress that the Corporation should, in all of its communications, distinguish individuals receiving stipends or allowances from volunteers by—

(1) referring to participants in AmeriCorps under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) as "members";

(2) referring to participants in the Foster Grandparent Program as "Foster Grandparents"; and

(3) referring to participants in the Senior Companion Program as "Companions".

**SEC. 5004. RECRUITMENT AND APPLICATION MATERIALS IN LANGUAGES OTHER THAN ENGLISH.**

It is the sense of Congress that the programs established or authorized by this Act,

and those which receive funding under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or the Domestic and Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) are encouraged to provide recruitment and application materials in languages other than English, if applicable, in order to serve communities of limited English proficiency, and that such programs may use such funding to provide and distribute such materials.

Mr. MCCAIN. Mr. President, I am grateful to join my colleagues, Senators EVAN BAYH, TED KENNEDY, and BARBARA MIKULSKI in reintroducing the Call to Service Act of 2003. This important legislation significantly expands opportunities for citizens to serve their country as community volunteers and in homeland security functions.

This legislation expands legislation that I introduced with senator BAYH in 2001. A key component of the original McCain/Bayh proposal became law last year. To meet the changing personnel needs of today's military, the Defense Department will now have a new, shorter-term enlistment option. Individuals who volunteer to serve under this new program serve on active duty for 15 months after their initial military training and can complete the remainder of their obligation by choosing service on active duty, in the Selected Reserve or in the Individual Ready Reserve, which can be fulfilled by in a civilian national service program such as the Peace Corps or AmeriCorps). In return for service, the legislation provides loan up to \$18,000, an educational allowance under the Montgomery GI Bill. I am encouraged by the excitement expressed by the Pentagon in meetings about the implementation of the program.

Two months after our legislation was introduced, President Bush made service programs a centerpiece of his 2002 State of the Union address. Unfortunately, since the speech, there has not been much followthrough on the part of this Administration.

From the time President Bush was the Governor of Texas, through his experience as President, he has proudly pointed out the successes of this program. Yet the Fiscal Year 2003 Omnibus Appropriations bill he sent to the Congress forced cuts in the program. Combined with a 50,000 cap placed on the number of AmeriCorps volunteers, AmeriCorps now faces a crisis.

My office has been inundated by phone calls from nervous AmeriCorps volunteers in recent days. They are all expressing the same fear that they will not have the opportunity to continue their service to our communities. Idealistic young men and women in this country got excited when they heard the President promise increased opportunities to serve. It is now time for the Congress and the President to expand opportunities to serve.

There is no shortage of causes that volunteers are eager to fix. We have failing schools, desperate for good teachers. Children in our poorest com-

munities are growing up in need of mentors. Millions of elderly Americans desperately want to stay in their homes and out of nursing facilities, but cannot do so without help with the small tasks of daily life. More and more of our communities are being devastated by natural disasters. Many of the AmeriCorps volunteers work for chronically understaffed organizations such as Boys and Girls Clubs, Habitat for Humanity and the Red Cross. I have to ask why would anyone think we should do anything except increase AmeriCorps to provide opportunities for as many people as possible to serve?

Not only does the community as a whole suffer when AmeriCorps is cut, but those who are eager to serve are affected as well. Currently, over 490 individuals serve in Arizona. Many of Arizona's AmeriCorps volunteers take advantage of the educational opportunities that go along with their service. To date, over 2,100 Arizona residents have taken advantage of the \$4,725 to help pay for college or pay back student loans. The fewer the number of slots available for AmeriCorps volunteers, the fewer the number of men and women who will be able to take advantage of this important opportunity.

I am grateful Senators BOND and MIKULSKI are working to ensure that the OMB ruling on the use of the education trust fund is used. This will ensure that the cut in the number of volunteers is less than originally feared. However make no mistake, there will be far fewer volunteers in 2003.

Our legislation seeks to increase the opportunity to serve in AmeriCorps. The Call to Service Act increases the number of people who volunteer for AmeriCorps by 25,000 per year until 175,000 people are serving in AmeriCorps each year for a five year period. This is a 125,000 increase in volunteers over the current 50,000 volunteers. Many of these new positions will be dedicated to homeland security. This legislation links AmeriCorps to Homeland Defense by directing the Corporation for National Service to work with the Department of Homeland Security to determine ways of promoting national security through service programs.

This legislation also expands eligibility for willing and able seniors to volunteer in a variety of capacities through Senior Corps, including senior companion programs, tutoring, providing long-term care, and serving as foster grandparents.

During my failed Presidential campaign in 2000, I had the opportunity to meet with students all across the country. I was deeply moved by the strong desire these young men and women expressed to serve their country. While I encourage military service to those I meet, I recognize this type of service is not for all. Our legislation increases the opportunities for these citizens.

The response to the terrorist attacks of 9/11 brought out the best in the citizens of the United States. Americans

reached out to their friends, neighbors and those in their communities. Many examples of serving causes greater than their self interest abound. This dedication to volunteer service is still alive today. We cannot continue to wait to provide expanded opportunities for national service. Congress should no longer delay in taking action on legislation to provide opportunities for Americans to serve.

Mr. BAYH. Mr. President, I am privileged to reintroduce the "Call to Service Act" with my colleagues, Senator JOHN MCCAIN, Senator TED KENNEDY and Senator BARBARA MIKULSKI—all great leaders on national service. I am proud to join with them today to offer this significant expansion of national service opportunities for all Americans—young and old, affluent, people of more modest means, all united in their devotion to serving America.

In November 2001, Senator MCCAIN and I introduced the "Call to Service Act" in an attempt to harness the spirit and overwhelming patriotism of our citizens after September 11. We wanted to give concrete opportunities to the countless Americans who were asking what they could do to give back to their country.

Weeks after we introduced our bill, we were encouraged when the President made his own more modest service proposals a rhetorical centerpiece of his 2002 State of the Union address. In that speech, President Bush promised a significant expansion of the AmeriCorps program. He said, "We want to be a nation that serves goals larger than self. We've been offered a unique opportunity, and we must not let this moment pass."

Unfortunately, the President is in danger of letting the moment pass. And now, almost a year and a half later, the promises of that speech sound hollow. The administration's efforts to expand service have been disappointingly lackluster. National Service expansion was held hostage in the last Congress by members of the President's own party on the far right, while he stood idly by.

In fact, Americans now have fewer opportunities to serve than before. In my State of Indiana, we are facing a 92 percent cut in AmeriCorps positions. Last year, there were nearly 400 full-time equivalent positions available to serve in Indiana. This year, there will only be fewer than 40 positions. This will have a dramatic impact on the AmeriCorps programs throughout Indiana and on Hoosiers throughout the State. It is a very real possibility that Indiana will only have one AmeriCorps program this year. Children are not going to be tutored and mentored, homes are not going to be built, neighborhoods are not going to be cleaned up, and communities are going to be left behind. Indiana is not unique, States across the country are facing similar reductions in programs and services.

I am grateful to Senators MIKULSKI and BOND for their efforts to ensure



that the OMB method of accounting is used to determine the number of AmeriCorps positions available this year. With this change, there will still be large reductions in AmeriCorps, but the damage will not be quite as severe.

As AmeriCorps faces its greatest challenge since it was created, it is important to restate our commitment to this program. Our legislation will expand AmeriCorps by 25,000 additional members each year for a total of 175,000 members in five years. It will continue to utilize volunteers to support homeland security functions to help meet our Nation's new security challenges in a smart, cost-efficient manner. Our legislation includes strong accountability measures to ensure that the funds and the volunteers will be devoting themselves to activities and programs that really make a difference, really work. It expands opportunities for our seniors to serve, so that as the baby boom generation retires they can give back to their country.

We stand here today to offer this consensus approach because we know we have arrived at a critical juncture in the cause of expanding national service. We are at risk of missing the moment if we don't act.

Frankly, what is called for here is leadership. We are attempting to provide that today by offering this consensus approach, Republicans and Democrats, leader of the committee, those of us who are not on the committee.

But the President must get engaged. He's said all the right things, now it is important that he do the right thing. If we're going to get a significant commitment to national service it is going to take more than lip service, and I hope that he will step forward and provide the kind of leadership that is necessary before this opportunity slips away from us.

The moment has not yet passed us. Americans are eager to serve. We are eager to enact this legislation, put an end to this sad chapter for national service, and build toward a Nation where the great energies and good intentions of our citizens are put to productive use.

By Mr. LUGAR (by request):

S. 1275. A bill to establish a comprehensive federal program to provide benefits to U.S. victims of international terrorism, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, by request, I introduce for appropriate reference a bill to establish a comprehensive Federal program to provide benefits to U.S. victims of international terrorism.

This proposed legislation has been requested by the Department of State, and I am introducing it in order that there may be a specific bill to which members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as to make any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD together with a letter addressed to me from the Assistant Secretary of State for Legislative Affairs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1275

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SEC. 101. SHORT TITLE.

This Act may be cited as the "Benefits for Victims of International Terrorism Act of 2003".

#### SEC. 102. ESTABLISHMENT OF PROGRAM.

There is established the Benefits for Victims of International Terrorism Program ("Program") under which monetary awards shall be made in accordance with this Act to eligible individuals who are physically injured, killed, or held hostage as a result of an act of international terrorism.

#### SEC. 103. DEFINITIONS.

In this Act, the following definitions apply: (A) ACT OF INTERNATIONAL TERRORISM.—The term "act of international terrorism" means an activity that constitutes terrorism within the definition provided in Section 2(15) of the Homeland Security Act of 2002 and that was committed by foreign nationals for foreign governments (or the agents thereof) and directed, in whole or in part, at the United States or at an individual because of the individual's status as a national of the United States.

(b) CLAIMANT.—The term "claimant" means an individual filing a claim for benefits under this Act. In the case of an individual who died as the direct result of the act of international terrorism, any individual who is eligible to recover under section 107(a) may be a claimant. In the case of an individual who suffered physical injury or was held hostage as the direct result of an act of international terrorism, the claimant shall be the individual who suffered the physical injury or was held hostage, except that a parent or legal guardian may file a claim on behalf of an individual who is less than 18 years of age, incompetent or incapacitated.

(c) CHILD.—The term "child" shall have the meaning given to it by 42 U.S.C. 3796b(2).

(d) DEPARTMENT.—The term "Department" means the Department of State.

(e) NATIONAL OF THE UNITED STATES.—The term "national of the United States" has the meaning given in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(f) PHYSICAL INJURY.—The term "physical injury" means an injury to the body, from a source external to the body, that directly results in partial or total physical disability, incapacity, or disfigurement.

(g) UNITED STATES.—The term "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Mariana Islands, the territories and possession of the United States, the territorial sea of the United States, and the airspace above them.

#### SEC. 104. ADMINISTRATION.

(a) THRESHOLD DETERMINATION.—

(1) Upon the occurrence of a terrorist incident, the Secretary of State, in consultation with the Attorney General and the Secretaries of Defense, Homeland Security and the

Treasury, shall promptly determine in writing whether an act of international terrorism as defined in section 103(a) of this Act has taken place. Any such determination shall be published in the Federal Register.

(2) The Secretary of State's determination under this section shall be final and conclusive, and it shall not be subject to review in any judicial, administrative or other proceedings.

(b) ADJUDICATION AND PAYMENT.—When a threshold determination set forth in subsection (a) is made, the Department shall have jurisdiction to receive, examine, adjudicate, and render final decisions, and pay awards with respect to claims filed under section 105 in accordance with the provisions of this Act.

#### SEC. 105. FILING OF CLAIMS.

(a) IN GENERAL.—Claims for benefits under the Program shall be filed with the Department on the form developed under subsection (b).

(b) CLAIM FORM.—

(1) The Department shall develop a form that claimants shall use when submitting claims under subsection (a).

(2) The claim form at a minimum shall request—

(A) in the case of a claim filed for a death benefit with respect to a decedent, information demonstrating the decedent's death as a direct result of the act of international terrorism and information demonstrating that the claimant is eligible to recover under the Act;

(B) in the case of a claim not involving a death, information demonstrating the physical harm that the claimant suffered as a direct result of the act of international terrorism or information demonstrating the period the claimant was held hostage as a direct result of the act of international terrorism; and

(C) in the case of a claim filed by a parent or legal guardian, information demonstrating the claimant's status a parent or legal guardian.

(3) The claim form shall state clearly and conspicuously the information contained in section 112(c) of this Act.

#### SEC. 106. ELIGIBILITY.

(a) IN GENERAL.—The Department shall review each claim filed under this Program and determine whether the claimant is an eligible individual under subsection (b) of this section or has filed a claim on account of the death of an eligible individual under subsection (b).

(b) ELIGIBLE INDIVIDUALS.—An eligible individual is a victim who, as of the date on which the act of international terrorism occurred,

(1) was a national of the United States; and

(2) (A) died as the direct result of the act of international terrorism,

(B) suffered physical injury as the direct result of the act of international terrorism, or

(C) was held hostage as a direct result of an act of international terrorism and not solely for ransom.

(c) EXCLUSION FOR PARTICIPANTS OR CONSPIRATORS IN ACTS OF TERRORISM.—A participant or conspirator in any act of international terrorism, or a representative of such individual, shall not be an eligible individual.

(d) EXCLUSION FOR MILITARY PERSONNEL.—This Program does not apply to any claim arising out of injury, death, or period as a hostage sustained by a member of the U.S. Armed Forces while serving on active duty.

(e) SEPTEMBER 11TH VICTIM COMPENSATION FUND.—Notwithstanding any other provision in this Act, no individual who is or was eligible to recover under the September 11th Victim Compensation Fund of 2001 shall be eligible to recover under this Act.

**SEC. 107. NATURE OF AWARDS.**

(a) **DEATH BENEFITS.**—In any case in which the Department determines, under regulations issued pursuant to this Act, that an eligible individual has died as the direct and proximate result of an act of international terrorism, the Department shall award a benefit to the survivor or survivors in the same manner and the same amount as death benefits are paid pursuant to the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.).

(b) **INJURY OR HOSTAGE BENEFIT.**—In the event the claimant was physically injured or held hostage as a direct result of an act of international terrorism, the Department shall award a benefit to the claimant in an amount determined by the Department up to, but not to exceed, the amount provided for under the preceding subsection. The Secretary of State may issue regulations regarding the amount of benefits to be provided under this subsection for categories of injuries or for durations of time as a hostage.

(c) **NO FAULT PROGRAM.**—Awards shall be made without regard to the negligence or any other theory of liability of the claimant or of the individual on whose behalf the claimant is filing a claim.

(d) **REVERSION OF AMOUNTS TO THE FUNDS.**—If no person is entitled to receive the amount awarded under the above subsections, the amount shall revert to the Fund.

**SEC. 108. LIMITATIONS ON CLAIMS.**

(a) **PROHIBITION ON DOUBLE RECOVERY.**—No benefit is payable under this Act with respect to a victim having been injured or held hostage if a benefit is payable under this Act with respect to the death of such victim. In the event that a payment is made under this Act on account of death or period as a hostage and a death benefit subsequently becomes payable for the death of the same victim, such death benefit shall be reduced by amounts previously awarded.

(b) **TIME LIMITATION FOR FILING.**—No claim may be filed on the basis of an act of international terrorism after the date that is 2 years after the date of publication in the Federal Register of the relevant determination under section 104(a) of this Act.

**SEC. 109. INTERNATIONAL TERRORISM BEFORE EFFECTIVE DATE.**

(a) **INTERNATIONAL TERRORISM BEFORE EFFECTIVE DATE.**—Benefits may be awarded under this Act, subject to the provisions of subsection (b) of this section, to eligible individuals for acts of international terrorism that took place before the effective date of this Act and which occurred on or after November 1, 1979.

(b) **DETERMINATION.**—The Secretary of State, in consultation with the Attorney General and the Secretaries of Defense, Homeland Security and the Treasury, shall issue, promptly upon the request of a claimant potentially covered under subsection (a), a determination whether an incident that occurred on or after November 1, 1979, and before the date of enactment of this Act was an act of international terrorism. Such requests will be considered only if made within one year after the date of enactment of this Act. Any such determination shall be published in the Federal Register.

**SEC. 110. AUTHORIZATION.**

(a) **AUTHORIZATION.**—There is established for the purpose of providing benefits under this Act a Victims of International Terrorism Benefits Fund ("Fund"). In addition to amounts otherwise authorized to be appropriated for the Department of State, there are authorized to be appropriated to the Department of State for deposit into the Fund such sums as may be necessary to pay

awards under this Act and to administer this Program.

(1) Amounts in the Fund shall be available until expended.

(2) **CONTRIBUTIONS.**—The Secretary of State is authorized to accept such amounts as may be contributed by individuals, business concerns, foreign governments, or other entities for the payment of awards certified under this Act and such amounts may be deposited directly into the Fund.

(3) Unexpended balances of expired appropriations available to the Department of State may be transferred directly into the Fund for the payment of awards under this Act and, to the extent and in such amounts as provided in appropriations acts, for the costs to administer this Program.

**SEC. 111. SUBROGATION.**

The United States shall be subrogated, to the extent of the payments, to any recovery in litigation or settlement of litigation related to an injury, death, or period of a hostage for which payment was made under the Program. Any amounts recovered under this subsection shall be deposited into the Fund established by section 110(a).

**SEC. 112. ADMINISTRATIVE PROVISIONS.**

(a) **RULE AND PROCEDURES.**—The Secretary of State may issue such rules and procedures as may be necessary to carry out this Act, including rules with respect to choice of law principles, admitting agents or other persons to representation before the Department of claimants under this Act, and the nature and maximum amount of fees that such agent or other person may charge for such representation.

(b) **ACTS COMMITTED TO OFFICER'S DISCRETION.**—Any action taken or omitted by an officer of the United States under this Act is committed to the discretion of such officer.

(c) **CIVIL ACTIONS AGAINST FOREIGN STATES.**—

(1) A person who by a civil action has obtained and received full satisfaction of a judgment against a foreign state or government or its agencies or instrumentalities, or against the United States or its agencies or instrumentalities, for death, injury, or period as a hostage due to an act of international terrorism shall not receive an award under this Act based on the same act of international terrorism.

(2) A person who has accepted benefits pursuant to an award under this Act relating to an act of international terrorism shall not thereafter commence or maintain in a court of the United States a civil action based on the same act of international terrorism against a foreign state or government or its agencies or instrumentalities or against the United States or its agencies or instrumentalities.

**SEC. 113. NO JUDICIAL REVIEW.**

Decisions made under this Act shall not be subject to review in any judicial, administrative or other proceeding.

**SEC. 114. CONFORMING AMENDMENTS.**

(a) Section 201 of the Terrorism Risk Insurance Act of 2002 (Public Law 107-297) is amended by adding the following as new subsection (e):

"(e) Subsection (a) shall not apply to any judgment obtained pursuant to a complaint filed after [the date of submission of the Benefits for Victims of International Terrorism Act of 2003]."

(b) Section 1610(f) of Title 28, United States Code (28 U.S.C. 1610(f)), is amended by adding the following at the end as new subparagraph (4):

"(4) Subsection (f) shall not apply to any judgment obtained pursuant to a complaint filed after [the date of submission of the Benefits for Victims of International Terrorism Act of 2003]."

U.S. DEPARTMENT OF STATE,  
Washington, DC, June 5, 2003.

Hon. RICHARD G. LUGAR,  
Chairman, Committee on Foreign Relations,  
U.S. Senate.

DEAR MR. CHAIRMAN: We are transmitting for your consideration a draft bill to establish a program to provide benefits for United States victims of international terrorism.

The proposed legislation is based on the following three principles:

The program should provide the same benefits to those with low incomes as those with greater means;

Victims should receive compensation as quickly as possible; and

The amount of compensation should be on par with that provided to families of public safety officers killed in the line of duty (currently \$262,000).

Thus, the government program should not be designed as the primary means of compensating victims and victims' families for their losses, but rather should complement life insurance, savings, and other private financial measures.

In contrast to a mechanism that uses blocked assets and rewards those that can secure judgements before such assets are exhausted, a fund based on the above principles would provide compensation for all victims fairly and equitably. It also preserves the President's prerogatives in the area of foreign affairs.

The proposed fund would be administered within the Department of State. The legislation includes authorization for appropriations necessary to compensate victims. In addition to these costs, a benefits adjudication unit will be established within the Department soon after enactment.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this proposal to Congress.

We urge your support for passage of this legislation, which provides compensation for U.S. victims of international terrorism in a fair and rational way.

Sincerely,

PAUL V. KELLY,  
Assistant Secretary,  
Legislative Affairs.

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 172—HONORING THE LIFE OF MEDIA REPORTING GIANT DAVID BRINKLEY, AND EXPRESSING THE DEEPEST CONDOLENCES OF THE SENATE TO HIS FAMILY ON HIS DEATH**

Mr. MCCONNELL (for himself and Mrs. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 172

Whereas the Senate has learned with sadness of the death of David Brinkley;

Whereas David Brinkley, born in Wilmington, NC, greatly distinguished himself as a newspaper reporter, radio correspondent, and television correspondent;

Whereas David Brinkley attended the University of North Carolina and served in the North Carolina National Guard;

Whereas David Brinkley's first job in Washington was covering the White House in 1943 for NBC as a radio reporter;

Whereas David Brinkley co-anchored "The Huntley-Brinkley Report," along with Chet

Huntley, which was widely popular during the 1960's;

Whereas David Brinkley hosted "This Week with David Brinkley" for fifteen years and it was the number one Sunday program when he retired in 1996;

Whereas David Brinkley covered eleven presidents, four wars, 22 political conventions, a moon landing and three assassinations;

Whereas David Brinkley wrote three books, won ten Emmy awards, six Peabody Awards, and in 1992, the Presidential Medal of Freedom, the nation's highest civilian honor;

Whereas David Brinkley is considered by many to be the premier broadcast journalist of his time;

Whereas David Brinkley was well known for his wry sense of humor, fundamental decency, gentlemanly charm, and his one-of-a-kind writing style will forever be remembered by his friends, colleagues, and the countless members of the television audience he touched week to week over his more than fifty year career: Now, therefore, be it

*Resolved*, That the Senate—

(1) pay tribute to the outstanding career of David Brinkley

(2) expresses its deepest condolences to his family; and

(3) directs the Secretary of the Senate to direct an enrolled copy of this resolution to the family of David Brinkley.

SENATE RESOLUTION 173—TO AMEND RULE XVI OF THE STANDING RULES OF THE SENATE WITH RESPECT TO NEW OR GENERAL LEGISLATION AND UNAUTHORIZED APPROPRIATIONS IN GENERAL APPROPRIATIONS BILLS AND AMENDMENTS THERETO, AND NEW OR GENERAL LEGISLATION, UNAUTHORIZED APPROPRIATIONS, NEW MATTER, OR NONGERMANE MATTER IN CONFERENCE REPORTS ON APPROPRIATIONS ACTS, AND UNAUTHORIZED APPROPRIATIONS IN AMENDMENTS BETWEEN THE HOUSES RELATING TO SUCH ACTS, AND FOR OTHER PURPOSES

Mr. MCCAIN (for himself, Mr. KYL, Mr. SESSIONS, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 173

*Be it Resolved*, That paragraph 1 of Rule XVI of the Standing Rules of the Senate is amended to read as follows:

"1. (a) On a point of order made by any Senator:

"(1) No new or general legislation nor any unauthorized appropriation may be included in any general appropriation bill.

"(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

"(3) No new or general legislation nor any unauthorized appropriation, new matter, or nongermane matter may be included in any conference report on a general appropriation bill.

"(4) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

"(b)(1) If a point of order under subparagraph (a)(1) against a Senate bill is sustained, then—

"(A) the new or general legislation or unauthorized appropriation shall be struck from the bill; and

"(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill shall be made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be reduced accordingly.

"(2) If a point of order under subparagraph (a)(1) against an Act of the House of Representatives is sustained, then an amendment to the House bill is deemed to have been adopted that—

"(A) strikes the new or general legislation or unauthorized appropriation from the bill; and

"(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill and reduces the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) accordingly.

"(c) If the point of order against an amendment under subparagraph (a)(2) is sustained, then the amendment shall be out of order and may not be considered.

"(d) If the point of order against a conference report under subparagraph (a)(3) is sustained, then—

"(1) the new or general legislation, unauthorized appropriation, new matter, or nongermane matter in such conference report shall be deemed to have been struck;

"(2) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be deemed to be reduced accordingly;

"(3) when all other points of order under this paragraph have been disposed of—

"(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated and reduction in the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) deemed to have been made);

"(B) the question shall be debatable; and

"(C) no further amendment shall be in order; and

"(4) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto shall be returned to the House for its concurrence in the amendment of the Senate.

"(e)(1) If a point of order under subparagraph (a)(4) against a Senate amendment is sustained, then—

"(A) the unauthorized appropriation shall be struck from the amendment;

"(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made and the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) shall be reduced accordingly; and

"(C) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the amendment as so modified.

"(2) If a point of order under subparagraph (a)(4) against a House amendment is sustained, then—

"(A) an amendment to the House amendment is deemed to have been adopted that—

"(i) strikes the new or general legislation or unauthorized appropriation from the House amendment; and

"(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment and reduces the allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) accordingly; and

"(B) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

"(f) The disposition of a point of order made under any other paragraph of this Rule, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subparagraph (a) with respect to the same matter.

"(g) A point of order under subparagraph (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

"(h) Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill, a conference report on a general appropriation bill, or an amendment between the Houses on a general appropriation bill violate subparagraph (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subparagraph (g), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(i) Notwithstanding any provision of the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.), no point of order provided for under that Act shall lie against the striking of any matter, the modification of total amounts to reflect the deletion of matter struck, or the reduction of an allocation of discretionary budgetary resources allocated under section 302(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)(2)) to reflect the deletion of matter struck (or to the bill, amendment, or conference report as affected by such striking, modification, or reduction) pursuant to a point of order under this paragraph.

"(j) For purposes of this paragraph:

"(1)(A) The term 'unauthorized appropriation' means an appropriation—

"(i) not specifically authorized by law or Treaty stipulation (unless the appropriation

has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

“(ii) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

“(B) An appropriation is not specifically authorized if it is restricted or directed to, or authorized to be obligated or expended for the benefit of, an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

“(i) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the restriction, direction, or authorization, for the amount appropriated; or

“(ii) is so restricted, directed, or authorized that it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction to which the restriction, direction, or authorization applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization of appropriation for such person, program, project, entity, or jurisdiction.

“(2) The term ‘new or general legislation’ has the meaning given that term when it is used in paragraph 2 of this Rule.

“(3) The terms ‘new matter’ and ‘non-germane matter’ have the same meaning as when those terms are used in Rule XXVIII.”.

#### **SEC. 2. STATEMENT REGARDING EFFECT OF REPORT LANGUAGE.**

Paragraph 7 of Rule XVI of the Standing Rules of the Senate is amended by adding at the end “It shall not be in order to proceed to the consideration of a general appropriation bill if the report on that bill contains matter that requires or permits the obligation or expenditure of any amount appropriated in that bill for the benefit of an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

“(A) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the requirement or permission, for the amount appropriated; or

“(B) it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law).”.

#### **SEC. 3. STATEMENT REGARDING EFFECT OF JOINT EXPLANATORY STATEMENT LANGUAGE.**

Rule XXVIII of the Standing Rules of the Senate is amended—

(1) by striking “The” in paragraph 1 and inserting “Except as provided in paragraph 7, the”; and

(2) by adding at the end the following:  
“7. It shall not be in order to proceed to the consideration of a conference report on a

general appropriations bill if the joint explanatory statement contains matter that requires or permits the obligation or expenditure of any amount appropriated in that bill for the benefit of an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

“(A) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the restriction or direction, for the amount appropriated; or

“(B) is so restricted or directed that it applies only to a single identifiable person, program, project, entity, or jurisdiction, unless the identifiable person, program, project, entity, or jurisdiction to which the restriction or direction applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law).”.

#### **SEC. 4. READING OF CONFERENCE REPORT AND JOINT EXPLANATORY STATEMENT.**

(a) VITIATING THE STANDING ORDER OF THE SENATE REGARDING THE READING OF CONFERENCE REPORTS.—The Standing Order of the Senate regarding the reading of conference reports established by the second sentence of section 903 of Division A of Appendix D—H.R. 5666 of the Consolidated Appropriations Act, 2001 (114 Stat. 2763A-198) is vitiated.

(b) READING OF JOINT EXPLANATORY STATEMENT.—There is established, as a Standing Order of the Senate, that the presentation of a conference report includes the presentation of the joint explanatory statement of the conferees required by paragraph 4 of Rule XXVIII of the Standing Rules of the Senate, and that a demand for the reading of the joint explanatory statement be subject to the same rules, precedents, and procedures as apply to a demand for the reading of the conference report.

Mr. MCCAIN. Mr. President, the resolution I am submitting today is a resolution to amend the Standing Rules of the Senate to give every Member the ability to raise points of order in objection to unauthorized appropriations or locality-specific earmarks that would circumvent the authorizing or competitive award process. I am pleased to be joined in this effort by my colleagues, Senators KYL, SESSIONS, and FEINGOLD.

Specifically, the resolution would establish a new procedure, modeled in part after the Byrd Rule, which would allow a point of order to be raised against any new or general legislation or unauthorized appropriations, including earmarks, in any general appropriations bills or amendments to general appropriations bills. It also would allow a point of order to be raised against any new or general legislation or unauthorized appropriations, new matter, or non-germane matter in any appropriations conference reports, and against unauthorized appropriations in amendments between the Houses.

Unless a point of order is waived by the affirmative vote of 60 votes, the unauthorized provision would be extracted from the measure, and the overall cost of the bill would be reduced by the corresponding amount. Furthermore, if a point of order is sustained against a provision in a con-

ference report, that provision also would be stricken. The legislative process would continue, however, and the legislation would revert to a non-amendable Senate amendment, which would be the conference agreement without the objectionable material, and the measure could then be sent back to the House.

The proposed rules change also includes two exemptions to points of order that currently apply to amendments to appropriations bills under rule XVI: appropriations that had been included in the President's budget request or would be authorized by a bill already passed by the Senate during that session of Congress. Such appropriations would not be subject to points of order under the proposed rules change.

Finally, as my colleagues know, the reports accompanying appropriations bills and the statements of managers that accompany conference reports are chock full of unauthorized appropriations and site-specific earmarks, typically far exceeding those in the bill language. There has been a growing tendency over the years for these reports to be viewed by Federal agencies as statutory directives. The fact is, of course, the Appropriations Committee reports and statements of managers are advisory only. Unless a device for curtailing such earmarking in report language is also implemented, the new rule could be rendered almost meaningless. Therefore, under our proposal, it would not be in order to consider an appropriations bill or conference report if the accompanying documents include unauthorized or earmarked items.

The proposal would not be self-enforcing but, rather, it would allow any Member to raise a point of order in an effort to extract objectionable unauthorized provisions. Our goal is to reform the current system by empowering all Members with a tool to rid appropriations bills of unauthorized funds, porkbarrel projects, and legislative policy riders.

For many years, I have worked to call attention to the wasteful practice of congressional earmarking whereby parochial interests are placed above national interests. Unfortunately, congressional earmarks have continued to rise year after year. In fact, according to information compiled from the CRS, the Congressional Research Service, the total number of earmarks has grown from 4,126 in fiscal year 1994, to 10,540 in fiscal year 2002. That is an increase of over 150 percent. And for the year 2003, the increase in number, from our preliminary estimates, is somewhere around 1,300 earmarks.

Our current economic situation and our vital national security concerns require that now, more than ever, we prioritize our Federal spending.

By the way, the earmarked funds have gone up a commensurate amount from \$26.8 billion in fiscal year 1994, to \$44.6 billion earmarked in 2002. I think

what this chart shows is as important as the earmarks, given the fact that we are now up close to \$50 billion in earmarked funds in our appropriations bills.

And this chart does not include the number of fundamental policy changes that are made in the appropriations process because they cannot get through the authorizing process, which is the proper process. And they, many times—as in a case that I will mention in a few minutes—often cost hundreds of millions of dollars to the taxpayers. Language included in the Department of Defense appropriations bill for fiscal year 1998 is a classic example. There were no funds earmarked in that bill that would show up here. It did show up as one policy change.

What it did do, in the Defense appropriations bill, is it granted a legal monopoly for American Classic Voyages to operate as the only U.S.-flagged operator among the Hawaiian Islands. After receiving the monopoly, American Classic Voyages secured a \$1.1 billion loan guarantee from the U.S. Maritime Administration's title XI loan guarantee program for the construction of two passenger vessels known as Project America.

Project America's subsequent failure 4 years later resulted in the U.S. Maritime Administration paying out \$187.3 million of the taxpayers' money to cover the project's loan default and recovering only \$2 million from the sale.

I am not alone in the opinion that the earmarking process has reached the breaking point. Consider the administration's recently submitted proposal to reauthorize the multiyear highway transit and safety programs which will expire in September 30, 2003. Interestingly, that proposal, entitled the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, SAFETEA, proposes to largely eliminate discretionary programs that currently exist under the Department's authority.

Why is that? One would think the Secretary of Transportation would be advocating the growth of discretionary programs so that he can award Federal grants for projects based on a meritorious selection process.

But over the years, such discretion has been assumed by the appropriators during the annual transportation appropriations process and all but nullified any role on the part of the Secretary and his ability to award discretionary grants.

Transportation Secretary Mineta, in testimony before the Senate Commerce Committee, stated:

SAFETEA eliminates most discretionary highway grant programs and makes these funds available under the core formula highway grants programs. States and localities have tremendous flexibility and certainty of funding under the core programs. Unfortunately, Congressional earmarking has frustrated the intent of most of these discretionary programs, making it harder for States and localities to think strategically about their own transportation problems.

To further illustrate the enormity of the earmarking situation, my colleagues need only consider the transportation earmarking that has occurred during the past 5 years. According to the Department of Transportation inspector general, Congress appropriated \$18 billion in discretionary funding for highway transit and aviation discretionary programs during fiscal years 1998 through 2002. Of that amount, \$11 billion or 60 percent was earmarked by Congress.

Let me just offer a few specific examples of recent earmarks: From the war supplemental appropriations conference report, \$110 million for modernization of the Agriculture Research Service, and Animal and Plant Health Inspection Service Facilities near Ames, IA. That was from a war supplemental appropriations conference report, specifically for the war in Iraq and homeland security. From the 2003 omnibus appropriations conference report, \$1 million for a bear DNA sampling study in Montana; \$280,000 for asparagus technology and production in Washington; \$220,000 to research future foods in Illinois; \$10 million for a seafood marketing program in Alaska; \$250,000 for research on the interaction of grapefruit juice and drugs; \$50,000 to combat feral hogs in Missouri; \$2 million for the Biomass Gasification Research Facility in Birmingham, AL; \$500,000 for the gasification of switchgrass in Iowa; \$1 million for the National Agriculture-Based Industrial Lubricants Center in Iowa; and \$202,500 to continue rehabilitation of the former Alaska Pulp Company mill site in Sitka, AK.

I usually make a lot of fun and jokes about these things, but it is getting out of hand. It is really getting out of hand. When we are looking at a \$400 billion deficit this year, can we afford \$1 million for a bear DNA sampling study in Montana?

The conference report also included an agricultural policy change to make catfish producers eligible for payments under the livestock compensation program even though hog, poultry, or horse producers are not eligible.

Further, the conference agreement contained provisions which allow a subsidiary of the Malaysian-owned Norwegian Cruise Lines the exclusive right to operate several large foreign-built cruise vessels in the domestic cruise trade. This provides an unfair competitive advantage to a foreign company at the expense of all other cruise ship operators and creates a de facto monopoly for NCL in the Hawaiian cruise trade.

From the fiscal year 2002 transportation appropriations conference report, nearly \$1 billion in highway program funding authorized to be distributed to the States by formula at the discretion of the Secretary was instead, for the first time, redirected and earmarked for projects such as \$1.5 million for the Big South Fork Scenic Railroad enhancement project in Ken-

tucky; \$2 million for a public exhibition on "America's Transportation Stories" in Michigan; and \$3 million for the Odyssey Maritime Project, a museum, in Washington. That was out of highway funds.

The National Corridor Planning & Development & Corridor Border Infrastructure Program was authorized at \$140 million. But the appropriators provided an additional \$333.6 million over the authorized level for a total of \$492.2 million in funding. The conferees then earmarked 100 percent of the funding for 123 projects in 38 States. Earmarks included, surprisingly, \$54 million for three projects in West Virginia; \$43 million for 18 projects in Kentucky; \$34.5 million for seven projects in Mississippi; \$34 million for five projects in Washington; and \$27 million for six projects in Alabama. Twelve States received zero funding under any program: Arizona, Colorado, Delaware, Hawaii, Nebraska, Nevada, North Dakota, Rhode Island, South Carolina, Utah, Vermont, and Wyoming.

I could go on citing examples of arbitrary earmarks. I will refrain for now. But something has to be done to put a halt to the alarming increase in earmarking.

I went over the rules changes and what they meant, but I would just like to give a most recent example. An issue that has arisen which is of great concern to many Americans is the issue of media concentration. We have had several hearings in the Commerce Committee. We had the FCC Commissioners up before the committee after they made a ruling. It has probably aroused more interest than any other issue ever before the Federal Communications Commission, certainly in recent memory.

Seven hundred fifty thousand Americans contacted the FCC on this issue of media concentration. The issue is difficult. It is complex. We have had many hearings on it. Over time, I have become convinced that this issue is a serious one. I believe there are serious problems with radio concentration. I am not sure what the answer is and exactly how we go about addressing the issue of both vertical and horizontal concentration, cross-ownership of newspapers, and television stations and cable stations and radio stations. But the committee will continue to explore it.

Last week, three of my colleagues from the Senate held a press conference: My dear friend Senator HOLLINGS, ranking member of the Commerce Committee, former chairman; Senator STEVENS of Alaska, second ranking member of the committee; and Senator LOTT, a very distinguished member of the committee. At the time, they said they were introducing legislation to freeze the ownership at 35 percent which would then counteract and repeal the rule raising media concentration levels to 45 percent by FCC.

The only reason I mention this is immediately in answer to the first question, they said: If we don't get it

through the committee, we can always put it on an appropriations bill. That was the comment made.

Mr. President, that is not the right way to do business on a major fundamental policy change, to tack it on as one line, as was described by Senator HOLLINGS, that we can always just zero out the funding. That is not the way we should be doing business.

This issue should be decided by all 100 Senators on the floor of the Senate. I am not saying the sponsors of the legislation are wrong. But this has to do with billions of dollars in acquisitions, or nonacquisitions, with fundamental changes within the media. The answer was, well, we will put it on an appropriations bill if we cannot get it through committee. The committee will be marking it up on Thursday. I don't know if it will get to the floor. That is up to the majority leader but, more importantly up to my colleagues who may put holds on it.

These are serious issues that impact greatly the United States of America, and they are being decided on appropriations bills, stuck in without even so much as a hearing many times. I will be on the floor many times on this issue because it is a long way from us being able to remove this power from the Appropriations Committee and put it back into the authorizing committees where it belongs.

Finally, some of the proudest and most intense and enjoyable moments of my political career have been as chairman of the Commerce Committee. I believe the Commerce Committee is well suited to address these issues. I believe the Commerce Committee is well suited to authorize major programs and address major policy challenges that confront the Nation, whether it is commerce, science, transportation, information technology, telecommunications, aviation, or all of the other issues. I don't think they should be decided by the Appropriations Committee, as far as policy is concerned. As far as the amounts of money are concerned, that is their job. I pretend to have no ambitions on that issue.

We have to get this out-of-control—and I mean totally out-of-control—situation under control. The situation has been dramatically exacerbated by the fact that we are now looking, in sheer whole numbers, at the highest deficits in the history of this country. As far as a percent of GNP, they are not the highest, but we are talking about at least \$400 billion this year.

We are about to—I am happy to say—pass a Medicare prescription drug program that will cost about \$400 billion or more over a 10-year period. We are looking at Social Security and Medicare. We cannot afford this high cost anymore. I believe the chairman of the Rules Committee will be holding a hearing on this issue. I don't believe it would get through the Rules Committee, but I am very grateful to Senator LOTT that he would allow a hearing on this issue. But I do not intend to

give up on it. We will be discussing it and debating it for a long time.

My constituents—and every American—do not expect us to act in this fashion, which in many cases is totally irresponsible.

I yield the floor.

Mr. KYL. Mr. President, the Congressional Budget Act, Rule 21 of the House of Representatives, and Rule 16 of the Senate are all designed to establish a balance between authorizing legislation and appropriations bills that would allow Congress to consider authorizing legislation in a timely and thoughtful manner, and prevent the year-ending appropriations process from degenerating into a venue for policymaking and provincialism.

Yet, according to CBO, over the past several years, the total amount of unauthorized appropriations has ranged between about \$90 billion and \$120 billion annually, and since 1998, the number of earmarks has risen by 150 percent to 10,540, which cost \$44.6 billion in 2002 alone. This trend has made a mockery of our institutional arrangement and beckons us to take action to fix the system.

The bill introduced today is not perfect, but it recognizes the deficiencies in current procedure and represents an earnest and thoughtful attempt to correct them. It would improve Rule 16 to close the loophole that currently insulates Senate appropriations committee-reported bills containing unauthorized appropriations and legislative language from points of order, while preserving the Senate's "defense of germaneness" to amend legislative language in House-passed appropriations bills.

It would also preserve balance between the Houses by allowing any Senator to raise a point of order against unauthorized appropriations included in a House-passed appropriations bill, conference report, or amendment between Houses. Finally, the bill attempts to regulate the practice of using committee or conference report language to earmark funds.

We have a problem; I think that much is clear. If other Members of this chamber do not agree with specific provisions of this bill, I ask that they offer constructive suggestions as to how best to breathe life back into Rule 16 and the institutional balance between authorization and appropriations. In the midst of the War on Terrorism and projected budget deficits, it would be an abrogation of our role as elected officials to allow the status quo to persist.

#### NOTICES OF HEARINGS/MEETINGS

##### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 18, 2003, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on Native American Sacred Places.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON FINANCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, June 17, 2003, at 10:00 a.m., to hear testimony on the "Implementation of U.S. Bilateral Free Trade Agreements with Singapore and Chile."

##### COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 17, 2003, at 9:30 a.m., to hold a hearing on "Treaties Related to Aviation and the Environment."

##### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, June 17, 2003, at 10:00 a.m., to hold a business meeting to consider pending Committee business.

#### Agenda

Legislation: S. 481, the Kurtz Bill; S. 589, Homeland Security Workforce Act; S. 610, NASA Workforce Flexibility Act of 2003; S. 678, Postmasters Equity Act of 2003; S. 908, United States Consensus Council; S. 910, Non-Homeland Security Mission Performance Act of 2003; S. 926, Federal Employee Student Loan Assistance Act; S. 1166, National Security Personnel System Act; and S. 1245, Homeland Security Grant Enhancement Act.

Post Office Naming Bills: S. 508, a bill to designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington, South Carolina, as the "Floyd Spence Post Office Building"; S. 708, a bill to redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the "Michael J. Healy Post Office Building"; S. 867, a bill to designate the facility of the United States Postal Service located at 710 Wicks Lane in Billings, Montana, as the "Ronald Reagan Post Office Building"; S. 1145, a bill to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building"; S. 1207, a bill to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building"; H.R. 825, an act to redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the "Michael J. Healy Post Office Building"; H.R. 917, an act to designate the facility of the United States Postal Service located at 1830 South



Lake Drive in Lexington, South Carolina, as the "Floyd Spence Post Office Building"; H.R. 925, an act to designate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the "Cesar Chavez Post Office"; H.R. 981, an act to designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the "James R. Merry Post Office"; H.R. 985, an act to designate the facility of the United States Postal Service located at 111 West Washington Street in Bowling Green, Ohio, as the "Delbert L. Latta Post Office Building"; H.R. 1055, an act to designate the facility of the United States Postal Service located at 1901 West Evans Street in Florence, South Carolina, as the "Dr. Roswell N. Beck Post Office Building"; H.R. 1368, an act to designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the "Norman D. Shumway Post Office Building"; H.R. 1465, an act to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the "General Charles Gabriel Post Office"; H.R. 1596, an act to designate the facility of the United States Postal Service located at 2318 Woodson Road in St. Louis, Missouri, as the "Timothy Michael Gaffney Post Office Building"; H.R. 1609, an act to redesignate the facility of the United States Postal Service located at 201 West Boston Street in Brookfield, Missouri, as the "Admiral Donald Davis Post Office Building"; H.R. 1740, an act to designate the facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, as the "Dr. Caesar A.W. Clark, Sr. Post Office Building"; and H.R. 2030, an act to designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the "Patsy Takemoto Mink Post Office Building."

Nominations: Michael J. Garcia to be Assistant Secretary for Immigration and Customs Enforcement, Department of Homeland Security; C. Steward Verdery, Jr. to be an Assistant Secretary of Homeland Security; Susanne Marshall to be Chairman of the Merit Systems Protection Board; Neil McPhie to be a Member of the Merit Systems Protection Board; Terrence A. Duffy to be a Member of the Federal Retirement Thrift Investment Board; Peter Eide to be General Counsel for the Federal Labor Relations Authority; Albert Casey to be a Governor for the United States Postal Service; and James C. Miller, III to be a Governor for the United States Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "The FTC Study on Barriers to Entry in the Pharmaceutical

Marketplace," on Tuesday, June 17, 2003, at 10:00 a.m., in the Dirksen Senate Office Building Room 226.

#### Witness List

Panel 1: The Honorable Timothy J. Muris, Esq., Chairman, Federal Trade Commission, Washington, DC; Mr. Dan Troy, Esq., Chief Counsel for Food and Drugs, Food and Drug Administration, Rockville, MD; Mr. Sheldon T. Bradshaw, Esq., Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, DC.

Panel 2: The Honorable Howard M. Metzenbaum, Esq.; Former U.S. Senator, [D-OH], Chairman, Consumer Federation of America, Washington, DC; Ms. Kathleen Jaeger, Esq., President and CEO, Generic Pharmaceutical Association, Washington, DC; Mr. Bruce Kuhlik, Esq., General Counsel, Pharmaceutical Research and Manufacturers of America, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "The Dark Side of a Bright Idea: Could Personal and National Security Risks Compromise the Potential of Peer-to-Peer Fine-Sharing Networks?" on Tuesday, June 17, 2003, at 2:00 p.m., in the Dirksen Senate Office Building Room 226.

#### Tentative Witness List

Panel I: The Honorable Dianne Feinstein, U.S. Senator, [D-CA]; The Honorable Tom M. Davis, III, U.S. Representative, [D-VA, 11th District], Chairman, House Committee on Government Reform.

Panel II: Nathaniel S. Good, Graduate Student, School of Information Science, University of California at Berkeley, Berkeley, CA; Aaron Krekelberg, Lead Web Developer, University of Minnesota, Minneapolis, MN; Randy Saaf, MediaDefender, Inc., Los Angeles, CA; Alan Morris, Executive Vice President, Sharman Networks, Ltd., London, England; Chris Murray, Esq., Legislative Counsel, Consumers Union, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON RULES AND ADMINISTRATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, June 17, 2003, at 9:30 a.m., to conduct a hearing on Senate Resolution 151, requiring public disclosure of notices of objections, holds, to proceedings to motions or measures in the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON VETERANS' AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the

Senate on Tuesday, June 17, 2003, for a hearing to consider the nominations of Mr. Alan G. Lance, Sr., and Mr. Lawrence B. Hagel, to be Judges, U.S. Court of Appeals for Veterans' Claims. The hearing will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 17, 2003, at 2:30 p.m. to hold an open confirmation hearing on Frank Libutti to be Under Secretary for Information Analysis and Infrastructure Protection, Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SPECIAL COMMITTEE ON AGING

Mr. BENNETT. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on June 17, 2003, from 10 a.m.-12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON CONSUMER AFFAIRS AND PRODUCT LIABILITY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs and Product Liability be authorized to meet on Tuesday, June 17, 2003, from 2:30 pm on Reauthorization of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Tuesday, June 17 at 9:30 am to conduct a hearing to receive testimony on S. 525, the National Aquatic Invasive Species Act at 2003, a bill to reauthorize the nonindigenous Aquatic Nuisance Prevention and Control Act. The hearing will take place in SD 406, Hearing Room.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRIVILEGES OF THE FLOOR

Mr. BREAU. Mr. President, at this time, I ask unanimous consent that the following fellows and interns on the Finance Committee be granted floor privileges for the duration of the debate on the Prescription Drug Medicare Improvement Act of 2003: Patrick Straub, Nadija Porobic, Kathy Laubach, Autumn Engellant, Constantine Tujios.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to allow floor privileges for Daniel Crimmins, a Robert



Woods Johnson health policy fellow in my office during deliberations on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. I ask unanimous consent that the privilege of the floor be granted to Erica Buehrens, a fellow in Senator JOHN EDWARDS' office, during the pendency of S. 1, the Medicare prescription drug benefit bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING THE LIFE OF MEDIA REPORTING GIANT DAVID BRINKLEY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 172, which was submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 172) honoring the life of media reporting giant David Brinkley, and expressing the deepest condolences of the Senate to his family on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, I spend many of my Sunday mornings having coffee with Tony Snow, Tim Russert and Bob Schieffer. The Sunday morning talk shows are a chance for me—and I'm sure every Senator in this Chamber—to listen and participate in some of the best and most lively debates in America. While today's hosts are some of the best in the business, their foundation was built by a legend. "This Week with David Brinkley" was that foundation. His show was the first Sunday talk show I remember watching. David had a passion for politics and it showed on the air. He set a pattern for all the other hosts to follow. Last Wednesday, when David passed away at the age of 82, America lost a friend.

David's interest in journalism and politics started at a very early age. He was born in Wilmington, NC, on July 10 1920. David's first job in journalism was at the Wilmington Morning Star, where he wrote for the newspaper while still in high school. Following graduation, he attended the University of North Carolina and served in the North Carolina National Guard. In 1943, after his discharge from the service, David moved to Washington, DC, and landed a job with NBC as a radio reporter covering President Franklin D. Roosevelt at the White House.

In 1956, David got his big break. He became a co-anchor with Chet Huntley during the Democratic and Republican political convention. I remember tuning in to David every night; in fact, I was probably the only 14-year-old in America that watched the conventions from gavel to gavel.

David did such an outstanding job during the conventions that NBC de-

cided to promote him to the nightly news. "The Huntley-Brinkley Report" premiered on October 29, 1956. This was NBC's nightly newscast, and it was the show that made David Brinkley a household name. Millions of Americans tuned in to the program nightly to get their news. Their show was so popular that, in the 1960s, David and Chet both had higher name recognition than the Beatles and John Wayne.

What most Americans remember about the show was the way they signed off each night: "Goodnight, Chet . . . Goodnight, David." It became one of the country's first catchphrases.

David permanently said "goodnight" to "The Huntley-Brinkley Report" in 1970. He stayed at NBC for another 11 years, continuing to report, anchor and host a magazine show.

In 1981, ABC arrived on the scene. The network offered him a Sunday morning talk show. "This Week with David Brinkley" was the first of its kind—an hour rather than 30 minutes, and it became a huge ratings hit.

During his long and outstanding career, David covered 11 presidents, 4 wars, 22 political conventions, a moon landing, and 3 assassinations. He wrote 3 books, won 10 Emmy awards, 6 Peabody awards, and in 1992, the Presidential Medal of Freedom—the Nation's highest civilian honor.

David was just as well known for his wry sense of humor, fundamental decency and gentlemanly charm as he was for his one-of-a-kind writing style. I am told that he wrote all of his own scripts, which is rare, especially in today's world of the 24-hour news channels. In 1987, he said: "it's the way I've written all my life, since I was 6 years old and working part-time at a local newspaper. I write the way I talk. Occasionally, rarely, because something happened while I was already on the air and I couldn't write it myself, somebody's written something and brought it to me. And I cannot read it. Can not! . . . And it's not that the writing is so terrible. It's just that . . . I can't read anything that isn't mine."

My prayers and deepest condolences go out to David's family and friends for their loss. Mr. President, I close by asking my colleagues to join me in paying tribute to David Brinkley's life and his contribution to journalism and politics. There will never be another one like him. He will be missed.

"Goodnight, David."

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 172) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 172

Whereas the Senate has learned with sadness of the death of David Brinkley;

Whereas David Brinkley, born in Wilmington, NC, greatly distinguished himself as a newspaper reporter, radio correspondent, and television correspondent;

Whereas David Brinkley attended the University of North Carolina and served in the North Carolina National Guard;

Whereas David Brinkley's first job in Washington was covering the White House in 1943 for NBC as a radio reporter;

Whereas David Brinkley co-anchored "The Huntley-Brinkley Report," along with Chet Huntley, which was widely popular during the 1960's;

Whereas David Brinkley hosted "This Week with David Brinkley" for fifteen years and it was the number one Sunday program when he retired in 1996;

Whereas David Brinkley covered eleven presidents, four wars, 22 political conventions, a moon landing and three assassinations;

Whereas David Brinkley wrote three books, won ten Emmy awards, six Peabody Awards, and in 1992, the Presidential Medal of Freedom, the nation's highest civilian honor;

Whereas David Brinkley is considered by many to be the premier broadcast journalist of his time;

Whereas David Brinkley was well known for his wry sense of humor, fundamental decency, gentlemanly charm, and his one-of-a-kind writing style will forever be remembered by his friends, colleagues, and the countless members of the television audience he touched week to week over his more than fifty year career: Now, therefore, be it

Resolved, That the Senate—

(1) pay tribute to the outstanding career of David Brinkley;

(2) expresses its deepest condolences to his family; and

(3) directs the Secretary of the Senate to direct an enrolled copy of this resolution to the family of David Brinkley.

#### ORDERS FOR TOMORROW

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., June 18. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of the proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10 a.m. with the time equally divided between the two leaders, or their designees, provided that at 10 a.m. the Senate resume consideration of S. 1, the prescription drug benefits bill.

Mr. REID. Mr. President, reserving the right to object, does the Senator from Kentucky have information that the scoring will be completed sometime during the night?

Mr. MCCONNELL. I am told that we believe it will be ready by the time we resume consideration of the bill in the morning.

Mr. REID. I think the debate today has been very constructive. I hope that in the next 10 days or so it is the same. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I say to the Democratic whip, as he knows, the intent of

the majority leader is to finish this bill by the July 4 recess. We hope to make great progress and, obviously, we will need to do that in the next 10 days.

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#### PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, tomorrow morning, following morning business, the Senate will resume consideration of S. 1, the prescription drug benefits bill. We have had a good debate on the issue so far yesterday and today, and a number of Members have come to the floor to speak on the merits of the bill.

Tomorrow, we expect to begin the amending process. Senators who wish to offer amendments are encouraged to contact the chairman or the ranking member of the Finance Committee so they may schedule time for consideration of their amendments.

I also advise our colleagues that roll-call votes are anticipated throughout tomorrow's session. Senators will be notified on when the first vote is scheduled.

In addition, I alert all Senators that votes are expected each day this week. As I indicated a few moments ago, we intend to complete this vital measure before we have the Fourth of July recess.

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#### ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of the senior Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

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#### ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I shall be short under the circumstances because I assume we will have another occasion to speak on the McCain amendment.

Parliamentary inquiry. I am informed it is the pending amendment.

The PRESIDING OFFICER. It is a resolution that was submitted and referred to committee.

Mr. STEVENS. It was referred to committee.

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I was improperly informed, but I would like to speak for a minute or two on that matter.

The PRESIDING OFFICER. That is in order. The Senate is in morning business.

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#### AMENDMENT TO RULE XVI OF THE STANDING RULES OF THE SENATE

Mr. STEVENS. Mr. President, everyone should understand the scope of the proposed resolution of the Senator from Arizona. I have before me some books. The books with white covers are requests I received as chairman of the Appropriations Committee on one bill last January, when we talked about the defense portion of what we call the omnibus bill.

The Chair will recall we had 11 bills that had to be put together. This is the portion pertaining just to the foreign assistance subcommittee dealing with matters of foreign assistance. Every one of those pages is a letter from a Member of the Senate asking our committee to change a portion of the appropriations bill for the specific subcommittee received from the administration. The President sends us a budget, and the budget is broken into 13 separate bills. These represent the requests received from Senators to change just 2 of those 11 bills.

Senator McCain's proposal would, in effect, say if any one of these requests were granted, it would be subject to a point of order and it would take 60 votes to allow that amendment to stay in the bill.

In other words, a Senator could make a motion after the Senate or the committee had agreed to one of these requests, and that motion would be to take it out. It would take 60 votes to sustain it. I think the Constitution assures a majority can pass any

amendment. This is a procedure that is unheard of in terms of parliamentary procedure and one I want the Senate to know if it possibly comes up on the floor, I think we shall demonstrate what a good old-fashioned filibuster is all about. I thank the Chair.

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#### AUTOMATIC DEFIBRILLATION IN ADAM'S MEMORY ACT

Mr. STEVENS. Mr. President, I ask unanimous consent, notwithstanding the previous order, that the HELP Committee be discharged from further consideration of H.R. 389 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 389) to authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrillation in schools.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 389) was read the third time and passed.

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#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, I renew the request of the distinguished assistant leader.

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 6:34 p.m., adjourned until Wednesday, June 18, 2003, at 9:30 a.m.